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THE

UNREPEALED GENERAL ACTS

OF

THE INDIAN LEGISLATIVE COUNCIL AND THE INDIAN LEGISLATURE AND ACTS MADE BY THE GOVERNOR GENERAL UNDER THE PROVISIONS OF SECTION 67B OF THE GOVERNMENT OF INDIA ACT.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

THE

UNREPEALED GENERAL ACTS

OF

THE INDIAN LEGISLATIVE COUNCIL AND THE INDIAN LEGISLATURE AND ACTS MADE BY THE GOVERNOR GENERAL UNDER THE PROVISIONS OF SECTION 67B OF THE GOVERNMENT OF INDIA ACT, WITH CHRONOLOGICAL TABLE AND INDEX.

From Act XII of 1919 to Act XLIII of 1923

VOL. IX.

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PREFACE.

THIS, the ninth volume of the Unrepealed General Acts, has been compiled on the same lines as the preceding volumes and has been divided into three Parts containing, respectively, Acts passed by the Indian Legislative Council (commencing with Act XII of 1919), Acts passed by the Indian Legislature and Acts made by the Governor General under the provisions of section 67B of the Government of India Act to the 31st December, 1923. All Acts are printed as modified up to that date.

Rules and Orders made under these enactments are referred to in footnotes and, wherever possible, reference is made to the List of General Statutory Rules and Orders which is kept up to date as far as is practicable by the issue of addenda and corrigenda.

An Index to the volume is as usual appended.

S. C. GUPTA,
Additional Joint Secretary,
Legislative Department, Government of India.

SIMLA,
The 15th June, 1924.

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(The figures in Column 5 refer to the pages of this Volume.)

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Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1919	XII	The Poisons Act, 1919.	Am., Act XXXVIII of 1920.	1
„	XIII	The Sea Customs (Amendment) Act, 1919.	....	4
„	XIV	The Provident Funds (Amendment) Act, 1919.	....	5
„	XV	The Calcutta High Court (Jurisdictional Limits) Act, 1919.	....	Bengal Code (Next edition).
„	XVI	The Indian Naturalization (Amendment) Act, 1919.	....	5
„	XVII	The Land Acquisition (Amendment) Act, 1919.	....	8
„	XVIII	The Repealing and Amending Act, 1919.	Rep. in pt., Act XXXVIII of 1920. Act XI of 1922.	8
„	XIX	The Indian Tariff (Amendment) Act, 1919.	....	15
„	XX	The Indian Arms (Amendment) Act, 1919.	....	16
„	XXI	The Indian Coinage (Amendment) Act, 1919.	....	17
„	XXII	The Cantonments (Amendment) Act, 1919.	....	18

[1] For Acts I to XI of 1919, *see* General Acts, Volume VIII.

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1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1919	XXIII	The Cinematograph (Amendment) Act, 1919.	....	19
,,	XXVII	The Indemnity Act, 1919.	....	21
1920	II	The Indian Army (Amendment) Act, 1920.	....	23
,,	III	The United Provinces Town Improvement (Appeals) Act, 1920.	....	United Provinces Code.
,,	IV	*The Indian Census Act, 1920.*	*Spent.*	
,,	V	The Provincial Insolvency Act, 1920.	Rep. in pt., Act XXXVIII of 1920.	23
,,	VI	The Inland Steam-vessels (Amendment) Act, 1920.	....	57
,,	VIII	The Dourine (Amendment) Act, 1920.	....	59
,,	IX	The Glanders and Farcy (Amendment) Act, 1920.	....	61
,,	X	The Indian Securities Act, 1920.	....	61
,,	XI	The Presidency-towns Insolvency (Amendment) Act, 1920.	....	72
,,	XII	The Workman's Breach of Contract (Amendment) Act, 1920.	....	73
,,	XIV	The Charitable and Religious Trusts Act, 1920.	Am., Act XLI of 1923	76

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1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1920	XV	The Indian Red Cross Society Act, 1920.	....	80
„	XVI	The Jagannath College Act, 1920.	....	Bengal Code (Next edition).
„	XVIII	The Dacca University Act, 1920.	Am., Act XXXI of 1920	Ditto.
„	XX	The Indian Army (Suspension of Sentences) Act, 1920.	....	85
„	XXII	The Lepers (Amendment) Act, 1920.	....	87
„	XXIII	The Indian Rifles Act, 1920.	....	88
„	XXIV	The Code of Civil Procedure (Amendment) Act, 1920.	....	88
„	XXV	The Negotiable Instruments (Amendment) Act, 1920.	....	89
„	XXVI	The Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920.	Am., Act XI of 1923	90
„	XXVII	The Indian Motor Vehicles (Amendment) Act, 1920.	....	91
„	*XXVIII*	*The Indian Patents and Designs (Temporary Rules) Amendment Act, 1920.*	*Spent.*	
„	XXIX	The Indian Patents and Designs (Amendment) Act, 1920.	....	92

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1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1920	XXX	*The Rouble Note Act, 1920.*	*Spent.*	
,,	XXXI	The Repealing and Amending Act, 1920.	Rep. in pt., Act XI of 1922	94
,,	XXXII	The Post Office Cash Certificates (Amendment) Act, 1920.	....	96
,,	XXXIII	The Identification of Prisoners Act, 1920.	Am. (in Bombay), Bom. Act XI of 1922.	97
,,	XXXIV	The Indian Passport Act, 1920.	....	99
,,	XXXV	The Basel Mission Trading Company Act, 1920.	....	Private Act. (Not republished.)
,,	XXXVI	The Indian Coinage (Amendment) Act, 1920.	....	101
,,	XXXVII	The Indian Army (Amendment) Act, 1920.	....	101
,,	XXXVIII	The Devolution Act, 1920.	Rep. in pt., Act V of 1922. ,, Act V of 1923. ,, Act XI of 1923. ,, Act XXI of 1923.	103
,,	XXXIX	The Indian Elections Offences and Inquiries Act, 1920.	....	140
,,	XL	The Aligarh Muslim University Act, 1920.	....	146
,,	XLII	The Indian Companies (Amendment) Act, 1920.	....	176
,,	XLIII	The Presidency Banks (Amendment) Act, 1920.	....	176

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Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1920	XLVI	The Cutchi Memons Act, 1920.	Am., Act XXXIV of 1923	176
„	XLVII	The Imperial Bank of India Act, 1920.	....	178
„	XLVIII	The Indian Territorial Force Act, 1920.	Am., Act XXXI of 1923	211
„	XLIX	The Auxiliary Force Act, 1920.	Am., Act XXXI of 1923	216

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(The figures in Column 5 refer to the pages of this Volume.)

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Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1921	I	The Indian Tea Cess (Amendment) Act, 1921.	....	229
„	II	The Legislative Assembly (Deputy President's Salary) Act, 1921.	....	229
„	III	The Code of Civil Procedure (Amendment) Act, 1921.	....	230
„	*IV*	*The Import and Export of Goods (Amendment) Act, 1921.*	*Spent.*	
„	VII	The Calcutta University Act, 1921.	....	Bengal Code (Next edition).
„	VIII	The Hindu Transfers and Bequests (City of Madras) Act, 1921.	....	Madras Code (Next edition).
„	IX	The Enemy Missions Act, 1921.	Am., Act XI of 1923	230
„	X	The Indian Marine (Amendment) Act, 1921.	....	236
„	XI	The Indian Works of Defence (Amendment) Act, 1921.	....	236
„	XII	The Negotiable Instruments (Amendment) Act, 1921.	....	237

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Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1921	XIII	The Carriers (Amendment) Act, 1921.	....	238
„	XIV	The Indian Lac Cess Act, 1921.	....	239
„	XV	The Indian Post Office (Amendment) Act, 1921.	....	241
„	XVI	The Indian Penal Code (Amendment) Act, 1921.	....	241
„	XVII	The Cattle-trespass (Amendment) Act, 1921.	....	242
„	XVIII	The Maintenance Orders Enforcement Act, 1921.	....	243
„	XIX	The Land Acquisition (Amendment) Act, 1921.	....	247
1922	I	The Indian Electricity (Amendment) Act, 1922.	....	248
„	II	The Indian Factories (Amendment) Act, 1922.	Am., Act XI of 1923	255
„	III	The Benares Hindu University (Amendment) Act, 1922.	....	264
„	IV	The Special Laws Repeal Act, 1922.	....	265
„	V	The Indian Criminal Law Amendment Repealing Act, 1922.	....	267
„	VI	The Indian Lunacy (Amendment) Act 1922.	....	268

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Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1922	VII	The Indian Emigration Act, 1922.	....	269
,,	VIII	The Delhi University Act, 1922.	....	279
,,	IX	The Civil Procedure (Amendment) Act, 1922.	....	302
,,	X	The Indian Limitation (Amendment) Act, 1922.	....	304
,,	XI	The Indian Income-tax Act, 1922.	Am., Act XV of 1923. Supplemented (temp.), Indian Finance Act, 1923. Am., Act XXVII of 1923.	305
,,	XII	The Indian Finance Act, 1922.	Rep. in pt., Act X of 1923. Rep. in pt., Indian Finance Act, 1923.	335
,,	XIII	The Ranchi Mental Hospital Act, 1922.	....	355
,,	XIV	The Press Law Repeal and Amendment Act, 1922.	....	363
,,	XV	The Indian Ports (Amendment) Act, 1922.	....	370
,,	XVI	The Indian Extradition (Amendment) Act, 1922.	....	371
,,	XVII	The Indian Museum (Amendment) Act, 1922.	....	371
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Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1922	XIX	The Court-fees (Amendment) Act, 1922.	....	372
„	XX	The Parsi Marriage and Divorce (Amendment) Act, 1922.	....	373
„	XXI	The Official Trustees and Administrator-General's Acts Amendment Act, 1922.	....	374
„	XXII	The Police (Incitement to Disaffection) Act, 1922.	....	375
1923	I	The Criminal Tribes (Amendment) Act, 1923.	....	377
„	II	The Malabar (Completion of Trials) Supplementing Act, 1923.	....	Madras Code (Next edition).
„	III	The Cotton Transport Act, 1923.	....	380
„	IV	The Indian Mines Act, 1923.	....	383
„	V	The Indian Boilers Act, 1923.	....	402
„	VI	The Cantonments (House-Accommodation) Act, 1923.	....	414
„	VII	The Indian Naval Armament Act, 1923.	....	426
„	VIII	The Workmen's Compensation Act, 1923.	....	433
„	IX	The Indian Factories (Amendment) Act, 1923.	....	455

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1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1923	X	The Indian Paper Currency Act, 1923.	Am., Indian Finance Act, 1923. Am., Act XXXVI of 1923.	456
,,	XI	The Repealing and Amending Act, 1923.	....	466
,,	XII	The Criminal Law Amendment Act, 1923.	....	471
,,	XIII	The Married Women's Property (Amendment) Act, 1923.	....	483
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,,	XV	The Indian Income-tax (Amendment) Act, 1923.	....	490
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1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
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„	XXV	The Moorshedabad (Amendment) Act, 1923.	....	Ditto.
„	XXVI	The Code of Civil Procedure (Amendment) Act, 1923.	....	680
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„	XXVIII	The Indigo Cess (Repealing) Act, 1923.	....	681
„	XXIX	The Code of Civil Procedure (Amendment) Act, 1923.	....	681
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„	XXXI	The Indian Territorial and Auxiliary Forces (Amendment) Act, 1923.	....	683
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„	XXXIV	The Cutchi Memons (Amendment) Act, 1923.	....	686
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1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected by legislation.	Where published.
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„	XXXVII	The Code of Criminal Procedure (Second Amendment) Act, 1923.	....	688
„	XXXVIII	The Land Acquisition (Amendment) Act, 1923.	....	690
„	XXXIX	The Indian Ports (Amendment) Act, 1923.	....	691
„	XL	The Indian Electricity (Amendment) Act, 1923.	....	692
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(The figures in Column 4 refer to the pages of this Volume.)

1	2	3	4
Year.	Short title.	How repealed or otherwise affected by legislation.	Where published.
1922	The Indian States (Protection against Disaffection) Act, 1922.	....	701
1923	The Indian Finance Act, 1923 .	....	702

PART I.

THE UNREPEALED GENERAL ACTS

OF THE

INDIAN LEGISLATIVE COUNCIL.

ACT No. XII OF 1919.[1]

[*3rd September, 1919.*]

An Act to consolidate and amend the law regulating the importation, possession and sale of poisons throughout British India.

WHEREAS it is expedient to consolidate and amend the law regulating the importation, possession and sale of poisons throughout British India; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Poisons Act, 1919.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Power of the Local Government to regulate possession for sale and sale of any poison.

2. (*1*) Subject to the control of the Governor General in Council, the Local Government may by rule regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or retail, of any specified poison.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the grant of licenses to possess any specified poison for sale, wholesale or retail, and the fixing of the fee (if any) to be charged for such licenses;

(*b*) the classes of persons to whom alone such licenses may be granted;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 22; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 170 and 872.

(*c*) the classes of persons to whom alone any such poison may be sold;

(*d*) the maximum quantity of any such poison which may be sold to any one person;

(*e*) the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;

(*f*) the safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale; and

(*g*) the inspection and examination of any such poison when possessed for sale by any such vendor.

Power to prohibit importation into British India of any poison except under license.

3. The Governor General in Council may, by notification in the Gazette of India, prohibit, except under and in accordance with the conditions of a license, the importation into British India of any specified poison, and may by rule regulate the grant of licenses.

Power to regulate possession of any poison in certain areas.

4. (*1*) The Local Government, [1][subject to the control] of the Governor General in Council, may by rule regulate the possession of any specified poison in any local area in which the use of such poison for the purpose of committing murder or mischief by poisoning cattle appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.

(*2*) In making any rule under sub-section (*1*), the Local Government may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the poison in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.

Presumption as to specified poisons.

5. Any substance specified as a poison in a rule made or notification issued under this Act shall be deemed to be a poison for the purposes of this Act.

Penalty for unlawful importation, etc.

6. (*1*) Whoever—

(*a*) commits a breach of any rule made under section 2, or

(*b*) imports into British India without a license any poison the importation of which is for the time being restricted under section 3, or

(*c*) breaks any condition of a license for the importation of any poison granted to him under section 3,

[1] These words were substituted for the words "with the previous sanction" by s. 2 & Sch. I of the Devolution Act, 1920 (XXXVIII of 1920), *infra*.

shall be punishable,—

(*i*) on a first conviction, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and

(*ii*) on a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(*2*) Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, shall be liable to confiscation.

Power to issue search warrants.

7. (*1*) The District Magistrate, the Sub-divisional Magistrate and, in a Presidency-town, the Commissioner of Police, may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder, or that any poison liable to confiscation under this Act is kept or concealed.

(*2*) The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of the [1]Code of Criminal Procedure, 1898, relating to search-warrants shall, as far as may be, be deemed to apply to the execution of the warrant.

V of 1898.

Rules.

8. (*1*) In addition to any other power to make rules hereinbefore conferred [2][and] subject to the control of the Governor General in Council, the Local Government may make rules generally to carry out the purposes and objects of this Act.

(*2*) Every power to make rules conferred by this Act shall be subject to the condition of the rules being made after previous publication.

(*3*) All rules made by the Governor General in Council or by the Local Government under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

Savings.

9. (*1*) Nothing in this Act or in any license granted or rule made thereunder shall extend to, or interfere with, anything done in good faith in the exercise of his profession as such by a medical or veterinary practitioner.

(*2*) Notwithstanding anything hereinbefore contained, the Local Government may in its discretion by general or special order declare

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[1] General Acts, Vol. V.

[2] This word was substituted for the words "the Governor General in Council, or" by s. 2 & Sch. I of the Devolution Act, 1920 (XXXVIII of 1920), *infra*.

that all or any of the provisions of this Act shall be deemed not to apply to any article or class of articles of commerce specified in such order, or to any poison or class of poisons used for any purpose so specified.

(*3*) The authority on which any power to make rules under this Act is conferred may, by general or special order, either wholly or partially—

(*a*) exempt from the operation of any such rules, or

(*b*) exclude from the scope of the exemption provided by sub-section (*1*),

any person or class of persons either generally or in respect of any poisons specified in the order.

Repeal of Act I of 1904.

10. The Poisons Act, 1904, is hereby repealed. I of 1904.

ACT No. XIII OF 1919.[1]

[*17th September, 1919.*]

An Act further to amend the Sea Customs Act, 1878.

WHEREAS it is expedient further to amend the [2]Sea Customs Act, 1878; It is hereby enacted as follows:— VIII of 1878.

Short title.

1. This Act may be called the Sea Customs (Amendment) Act, 1919.

Amendment of section 195, Act VIII of 1878.

2. Section 195 of the [2]Sea Customs Act, 1878, shall be re-numbered section 195 (*1*), and to the same section the following sub-section shall be added, namely:— VIII of 1878.

"(*2*) In the case of goods which consist of drugs or articles intended for consumption as food, and in respect of which the taking of samples for the purposes of this sub-section may have been authorised by general or special order of the Local Government, the Customs-collector may also in like circumstances take samples thereof for submission to, and examination by, such officer of Government or of a local authority as may be specified in such order. The real value of all such samples shall be paid to the owner by the Customs-collector."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 67; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 872 and 1101.

[2] General Acts, Vol. II.

ACT No. XIV OF 1919.[1]

[*17th September, 1919.*]

An Act further to amend the Provident Funds Act, 1897.

IX of 1897.

WHEREAS it is expedient further to amend the [2]Provident Funds Act, 1897; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Provident Funds (Amendment) Act, 1919.

IX of 1897.

Amendment of section 2, Act IX of 1897.

2. For clause (*2*) of section 2 of the [2]Provident Funds Act, 1897, the following shall be substituted, namely:—

"(*2*) 'Government Provident Fund' means a Provident Fund constituted by the authority of the Government for any class or classes of its employees or for teachers in educational institutions."

ACT No. XVI OF 1919.[3]

[*17th September, 1919.*]

An Act further to amend the Indian Naturalization Act, 1852.

XXX of 1852.

WHEREAS it is expedient further to amend the [4]Indian Naturalization Act, 1852; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Naturalization (Amendment) Act, 1919.

XXX of 1852.

Repeal of section 6 of Act XXX of 1852 and insertion of new sections 11A and 11B.

2. (*1*) Section 6 of the [3]Indian Naturalization Act, 1852 (hereinafter referred to as the said Act), is hereby repealed.

(*2*) After section 11 of the said Act, the following sections shall be inserted, namely:—

Revocation of certificates of naturalization.

"11A. (*1*) Where the Government of any part of the said territories in which a person to whom a certificate of naturalization has been issued under this Act for the time being resides (hereinafter called 'the Local Government') are satisfied that the certificate has been obtained by false representation or fraud or by concealment of material circumstances, or that the person to whom the certificate has been issued has shown himself by act or speech to be disaffected or disloyal to His Majesty, the Local Government shall by order in writing revoke the certificate.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 68; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 873 and 1101.

[2] General Acts, Vol. IV.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 76, and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 877 and 1102.

[4] General Acts, Vol. I.

(*2*) Without prejudice to the foregoing provisions, the Local Government shall by order in writing revoke a certificate of naturalization in any case in which they are satisfied that the person to whom a certificate was issued—

(*a*) has during any war in which His Majesty is engaged unlawfully traded or communicated with the enemy or with the subject of an enemy state or been engaged in or associated with any business which is to his knowledge carried on in such a manner as to assist the enemy in such war; or

(*b*) has within five years of the date of the issue of the certificate been sentenced by any Court in His Majesty's dominions to transportation or penal servitude or to imprisonment for a term of not less than twelve months, or to pay a fine of not less than one thousand rupees; or

(*c*) was not of good character at the date of the issue of the certificate; or

(*d*) has since the date of the issue of the certificate been for a period of not less than seven years ordinarily resident out of His Majesty's dominions otherwise than as a representative of a British subject, firm or company carrying on business, or an institution established, in His Majesty's dominions or in the service of the Crown, and has not maintained substantial connection with His Majesty's dominions; or

(*e*) remains according to the law of a state at war with His Majesty a subject of that state;

and that (in any case) the continuance of the certificate is not conducive to the public good.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), no Local Government shall revoke a certificate of naturalization issued by another Government without the concurrence of that Government.

(*4*) The Local Government may, if they think fit, before making an order under this section refer the case for such inquiry as is hereinafter specified, and in any case to which sub-section (*1*) or clause (*a*), (*c*) or (*e*) of sub-section (*2*) applies, the Local Government shall, by notice given to, or sent by post to the last known address of, the holder of the certificate, give him an opportunity of claiming that the case be referred for such inquiry, and if the holder so claims in accordance with the notice, the Local Government shall refer the case for inquiry accordingly.

(*5*) (*a*) An inquiry under this section shall be held by such person or persons and in such manner as the Local Government may direct in each case.

(*b*) Persons appointed under clause (*a*) of this sub-section shall be deemed to be public servants within the meaning of the [1]Indian Penal Code, and shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the [2]Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters:—

XLV of 1860.

V of 1908.

(*i*) enforcing the attendance of any person and examining him on oath;

(*ii*) compelling the production of documents; and

(*iii*) issuing commissions for the examination of witnesses;

and any proceeding under this sub-section shall be deemed to be a 'judicial proceeding' within the meaning of sections 193 and 228 of the [1]Indian Penal Code.

XLV of 1860.

(*6*) Where a certificate of naturalization has been revoked under this section, the revocation shall have effect from such date as may be directed by the Local Government, and thereupon the certificate shall be given up and cancelled, and any person refusing or neglecting to give up his certificate shall be punishable with fine which may extend to one thousand rupees.

Effect of revocation of certificate of naturalization.

11B. (*1*) Where a certificate of naturalization is revoked, the former holder thereof shall thenceforth be deemed to be an alien and a subject of the state to which he belonged at the time the certificate was issued.

(*2*) Where a certificate of naturalization is revoked, the Local Government may by order in writing direct that the wife and minor children (or any of them) of the person whose certificate is revoked shall thenceforth be deemed to be aliens; but where no such direction is made, the nationality of the wife and minor children of the person whose certificate is revoked shall not be affected by the revocation:

Provided that—

(*a*) it shall be lawful for the wife of any such person within six months after the date of the order of revocation to make a declaration of alienage, and she and any minor children of her husband and herself shall thenceforth be deemed to be aliens; and

(*b*) in the case of a wife who was at birth a natural-born subject of His Majesty, no such order as aforesaid shall be made unless the Local Government is satisfied that, if she had held a certificate of naturalization in her own right, the certificate could properly have been revoked under section 11A, and the provisions of that section as to referring cases for inquiry shall apply to the making of any such order as they apply to the revocation of a certificate."

[1] General Acts, Vol. I.
[2] General Acts, Vol. VI.

Amendment of section 12, Act XXX of 1852.

3. In section 12 of the said Act, between the word "shall" and the words "be deemed" the following shall be inserted, namely:—

"save in so far as a different intention is expressed."

Substitution of "His Majesty" for "Her Majesty" in Act XXX of 1852.

4. For the words "Her Majesty" wherever they occur in the said Act the words "His Majesty" shall be substituted.

ACT No. XVII OF 1919.[1]

[*17th September, 1919.*]

An Act further to amend the Land Acquisition Act, 1894.

WHEREAS it is expedient further to amend the [2]Land Acquisition Act, 1894; It is hereby enacted as follows:— I of 1894.

Short title.

1. This Act may be called the Land Acquisition (Amendment) Act, 1919.

Amendment of section 3, Act I of 1894.

2. To clause (*e*) of section 3 of the [2]Land Acquisition Act, 1894, the following shall be added, namely:—"and includes a society registered under the [3]Societies Registration Act, 1860, and a registered society within the meaning of the [4]Co-operative Societies Act, 1912." I of 1894. XXI of 1860 II of 1912.

ACT No. XVIII OF 1919.[5]

[*17th September, 1919.*]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule;

And whereas it is also expedient that certain enactments specified in the Second Schedule which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Repealing and Amending Act, 1919.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 77; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 878 and 1102.
[2] General Acts, Vol. IV.
[3] General Acts, Vol. I.
[4] General Acts, Vol. VII.
[5] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 86; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 879 and 1102.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof. Repeal of certain enactments.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to; Savings.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

1	2	3	4
Year.	No.	Short title.	Amendments.
1865	X	The Indian Succession Act, 1865.	In section 256, after the word "administration" the words and figures "other than a grant under section 212" shall be inserted. After section 264 the following sections shall be inserted, namely :— "264A. The High Court may, on application made to it, suspend, remove or discharge any private executor or administrator and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate. Removal of executor or administrator and provision for successor.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1865	X	The Indian Succession Act, 1865—*contd.*	264B. Where probate or letters of administration in respect of any estate have been granted under this Act, the High Court may, on application made to it, give to the executor or administrator any general or special directions in regard to the estate or in regard to the administration thereof." Directions to executor or administrator. After section 269 the following sections shall be inserted, namely:— "269A. An executor or administrator may in addition to, and not in derogation of, any other powers of expenditure lawfully exerciseable by him, incur expenditure— General powers of administration. (*a*) on such acts as may be necessary for the proper care and management of any property belonging to any estate administered by him, and (*b*) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property. 269B. An executor or administrator shall not be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1913." Commission or agency charges.
1869	IV	The Indian Divorce Act, 1869.	In clause (*l*) of section 3, for the words "Chief Court of the Punjab" the words "High Court of Judicature at Lahore" shall be substituted.
1870	VII	The Court-fees Act, 1870	In Article 13 of Schedule I, for the words "Chief Court in the Punjab" the words "High Court of Judicature at Lahore" shall be substituted.
1872	I	The Indian Evidence Act, 1872.	In section 1, after the words "Courts-martial" the words "other than Courts-martial convened under the Army Act" shall be inserted.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1881	V	The Probate and Administration Act, 1881.	After section 87 the following sections shall be inserted, namely:— "87A. The High Court may, on application made to it, suspend, remove or discharge any private executor or administrator, and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate. Removal of executor or administrator and provision for successor. 87B. Where probate or letters of administration in respect of any estate have been granted under this Act, the High Court may, on application made to it, give to the executor or administrator any general or special directions in regard to the estate or in regard to the administration thereof." Directions to executor or administrator. After section 90 the following sections shall be inserted, namely:— "90A. An executor or administrator may in addition to, and not in derogation of, any other powers of expenditure lawfully exerciseable by him, incur expenditure— General powers of administration. (*a*) on such acts as may be necessary for the proper care and management of any property belonging to any estate administered by him, and (*b*) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property. 90B. An executor or administrator shall not be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1913." Commission or agency charges.
1887	XVI	The Punjab Tenancy Act, 1887.	In sections 84, 99, 100 and 105, for the words "Chief Court" wherever those words occur in the said sections the words "High Court" shall be substituted.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1887	XVII	The Punjab Land-revenue Act, 1887.	In clauses (*d*) and (*e*) of sub-section (*2*) of section 117, for the words "Chief Court" the words "High Court" shall be substituted.
1890	IX	The Indian Railways Act, 1890.	In sub-section (*3*) of section 26, for the words "in the case of the Chief Court of the Punjab, the Senior Judge or, in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma" the words "in the case of the Chief Court of Lower Burma, the Chief Judge" shall be substituted. For sub-section (*2*) of section 31, the following shall be substituted, namely :— "(*2*) Subject to the provisions of sub-section (*1*), an appeal shall lie from an order of the Commissioners to the High Court of which the Law Commissioner was a member."
1897	X	The General Clauses Act, 1897.	Section 8 shall be re-numbered section 8 (*1*), and to the said section the following sub-section shall be added, namely :— "(*2*) Where any Act of Parliament repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any Act of the Governor General in Council or in any Regulation or instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted." After section 13 the following section shall be inserted, namely :— "13A. In all Acts of the Governor General in Council and Regulations references to the Sovereign or to the Crown shall, unless a different intention appears, be construed as references to the Sovereign for the time being." References to the Sovereign. In sub-section (*1*) of section 14, the words "on the Government" shall be omitted, and after the word "then" the words "unless a different intention appears" shall be inserted.
1898	V	The Code of Criminal Procedure, 1898.	In clause (*j*) of sub-section (*1*) of section 4, the word "and" where it occurs between the words "Allahabad" and "Patna" shall be omitted, and for the words "the Chief Court of the Punjab" the words "and Lahore" shall be substituted.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1899	II	The Indian Stamp Act, 1899.	In clause (*c*) of sub-section (*1*) of section 57, for the words "Chief Court of the Punjab" the words "High Court of Judicature at Lahore" shall be substituted.
1900	XIII	The Punjab Alienation of Land Act, 1900.	In sub-sections (*2*) and (*3*) of section 21A, for the words "Chief Court" the words "High Court" shall be substituted.
1908	V	The Code of Civil Procedure, 1908.	In section 122, for the words "Chief Courts of the Punjab and Lower Burma" the words "Chief Court of Lower Burma" shall be substituted. In sub-section (*1*) of section 123, for the words "Chief Courts" the words "of the Chief Court" shall be substituted. In clause (*a*) of sub-section (*2*) of section 123, for the words and brackets "(in the Punjab or Burma)" the words and brackets "(in Burma)" shall be substituted.
„	IX	The Indian Limitation Act, 1908.	In Article 158 of the First Schedule, for the entry in the third column the following shall be substituted, namely :— "When the award is filed in Court and notice of the filing has been given to the parties."
1910	XV	The Cantonments Act, 1910.	For section 6 the following section shall be substituted, namely :— "6. The Local Government shall appoint as the Cantonment Magistrate a person who has been appointed to be a Magistrate in the district under section 12 of the Code of Criminal Procedure, 1898. Such Cantonment Magistrate shall be subordinate to the District Magistrate or to the District Magistrate and the Sub-divisional Magistrate, as the case may be, under section 17 of that Code." Cantonment Magistrate.
1911	VIII	The Indian Army Act, 1911.	For section 67 the following section shall be substituted, namely :— "67. No trial by a court-martial of any person subject to this Act for any offence shall be commenced after the expiration of three years from the date of such offence unless the trial of such offender could not, by reason of absence or some other manifest impediment, be commenced within that period; in which case the trial may be commenced at any time not exceeding two years after such impediment has ceased." Limitation of trial.

THE FIRST SCHEDULE—*concld.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1913	II	The Official Trustees Act, 1913.	In section 9, for the words "such testator" the words "the testator" shall be substituted.
1915	VII	The Delhi Laws Act, 1915.	In the proviso to section 3, for the words "Chief Court of the Punjab" the words "High Court of Judicature at Lahore" shall be substituted.
[1]* * *	* *	* * * * *	* * * * * * * *

THE SECOND SCHEDULE.

REPEALS.

(*See section 3.*)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
		Acts of the Governor General of India in Council.	
1866	XXVII	The Indian Trustees Act, 1866.	In section 2, in the definition of "High Court" the words "the Chief Court of the Punjab and".
„	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.	In section 1, in the definition of "High Court" the words "the Chief Court of the Punjab and".
1871	XXII	The Bengal Chaukidari (Amendment) Act, 1871.	The whole Act, so far as it applies to the United Provinces of Agra and Oudh.
1876	XVIII	The Oudh Laws Act, 1876.	In Part II of the Second Schedule, the entries relating to Acts XX of 1856 and XXII of 1871.
1879	XVIII	The Legal Practitioners Act, 1879.	In sub-section (*4*) of section 41, the words "the Chief Court of the Punjab and".
1807	X	The General Clauses Act, 1897.	Clause (*23*) of section 3. In sub-section (*1*) of section 4, the words "Her Majesty or the Queen".

[1] The entry relating to the Indian Income-tax Act, 1918 (VII of 1918), was repealed by s. 68 and Schedule of the Indian Income-tax Act, 1922 (XI of 1922), *infra*.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1898	V	The Code of Criminal Procedure, 1898.	In clause (*d*) of sub-section (*1*) of section 4, the words "the Chief Judge of the Chief Court of the Punjab and". In sections 266 and 365, the words "the Chief Court of the Punjab". In sub-section (*1*) of section 364, the words "or the Chief Court of the Punjab".
1902	V	The Administrators General and Official Trustees Act, 1902.	So much as is unrepealed.
1908	I	The Legal Practitioners (Amendment) Act, 1908.	Section 2.
[1] * * *	* * *	* * * * * * * * * * * * * *	
		Acts of the Lieutenant-Governor of the United Provinces of Agra and Oudh in Council.	
1906	IV	Repealing the North-Western Provinces and Oudh Kanungos and Patwaris Act, 1889.	The whole Act.
1910	I	The United Provinces Water-works (Amendment) Act, 1910.	The whole Act.

ACT No. XIX OF 1919.[2]

[*17th September, 1919.*]

An Act further to amend the Indian Tariff Act, 1894.

VIII of 1894. WHEREAS it is expedient further to amend the [3]Indian Tariff Act, 1894; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Tariff (Amendment) Act, 1919.

Amendment of section 10, Act VIII of 1894. VIII of 1894. **2.** In clause (*a*) of section 10 of the [3]Indian Tariff Act, 1894 (hereinafter referred to as the said Act), after the words "as the case may be,"

[1] The entry relating to the Indian Lunacy Act, 1912 (IV of 1912), was repealed by s. 3 and Schedule II of the Devolution Act, 1920 (XXXVIII of 1920), *infra*.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 98; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 945 and 1103.

[3] General Acts, Vol. IV.

the words "or any part thereof," shall be inserted; and for the words "equivalent to the duty" the words "equivalent to the amount paid in respect of such duty" shall be substituted.

Amendment of Schedule III, Act VIII of 1894.

3. In Schedule III of the said Act, items 3 and 4 shall be re-numbered 4 and 5, respectively, and after item 2, the following item shall be inserted, namely:—

	"HIDES & SKINS.		
3	RAW HIDES and SKINS.	*Ad valorem.*	15 per cent. Provided that, subject to such conditions as the Governor General in Council may by notification in the Gazette of India prescribe, a rebate shall be granted to the exporter of two-thirds of the duty levied on hides or skins exported to any part of His Majesty's dominions or of the territories of any Indian Prince or Chief under the suzerainty of His Majesty or of any territories under the protection of His Majesty or in respect of which a mandate of the League of Nations is exercised by the Government of any part of His Majesty's dominions."

ACT No. XX OF 1919.[1]

[*24th September, 1919.*]

An Act further to amend the Indian Arms Act, 1878.

WHEREAS it is expedient further to amend the [2]Indian Arms Act, 1878; It is hereby enacted as follows:— XI of 1878.

Short title and commencement.

1. (*1*) This Act may be called the Indian Arms (Amendment) Act, 1919.

(*2*) It shall come into force on the first day of January, 1920.

Substitution of a new section for section 16, Act XI of 1878. In certain cases arms to be deposited at police-stations or with licensed dealers.

2. For section 16 of the [2]Indian Arms Act, 1878, the following section shall be substituted, namely:— XI of 1878.

"16. (*1*) Any person possessing arms, ammunition or military stores the possession whereof has, in consequence of the cancellation or expiry of a license or of an exemption or by the issue of a notification under section 15 or otherwise, become unlawful, shall without unnecessary delay deposit the same either with the officer in charge of the nearest police-station or, at his option and subject to such conditions as the Local Government may by rule prescribe, with a licensed dealer.

(*2*) When arms, ammunition or military stores have been deposited under sub-section (*1*) or, before the first day of January, 1920, under the

[1] For Statement of Objects and Reasons *see* Gazette of India, 1919, Pt. V, p. 99; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 955 and 1322.
[2] General Acts, Vol. II.

provisions of any law for the time being in force, the depositor shall, at any time before the expiry of such period as the Local Government may by rule prescribe, be entitled—

(*a*) to receive back any thing so deposited the possession of which by him has become lawful, and

(*b*) to dispose, or authorize the disposal, of any thing so deposited by sale or otherwise to any person whose possession of the same would be lawful; and to receive the proceeds of any such sale:

Provided that nothing in this sub-section shall be deemed to authorize the return or disposal of any thing the confiscation of which has been directed under section 24.

(*3*) All things deposited as aforesaid and not returned or disposed of under sub-section (*2*) within the prescribed period therein referred to shall be forfeited to His Majesty.

(*4*) (*a*) The Local Government may make rules consistent with this Act for carrying into effect the provisions of this section.

(*b*) In particular and without prejudice to the generality of the foregoing provision, the Local Government may by rule prescribe—

(*i*) the conditions subject to which arms, ammunition and military stores may be deposited with a licensed dealer, and

(*ii*) the period after the expiry of which things deposited as aforesaid shall be forfeited under sub-section (*3*)."

ACT No. XXI OF 1919.[1]

[*24th September, 1919.*]

An Act further to amend the Indian Coinage Act, 1906.

III of 1906. WHEREAS it is expedient further to amend the [2]Indian Coinage Act, 1906; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Coinage (Amendment) Act, 1919.

Amendment of section 4, Act III of 1906. III of 1906. **2.** In section 4 of the [2]Indian Coinage Act, 1906 (hereinafter referred to as the said Act), the words "or eight-anna piece," and the words "or four-anna piece," in clauses (*b*) and (*c*), respectively, shall be omitted.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 92; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 939 and 1322.

[2] General Acts, Vol. VI.

Amendment of section 6, Act III of 1906.

3. In section 6 of the said Act, for the words "a two-anna piece and a one-anna piece" the words "an eight-anna, a four-anna, a two-anna and a one-anna piece" shall be substituted.

Amendment of section 7, Act III of 1906.

4. In section 7 of the said Act, for the words "two-anna and one-anna pieces shall be ninety and sixty grains Troy, respectively," the words "eight-anna, four-anna, two-anna and one-anna pieces shall be one hundred and twenty, one hundred and five, ninety, and sixty grains Troy, respectively," shall be substituted.

Amendment of section 13, Act III of 1906.

5. In section 13 of the said Act, for the words "The two-anna," the words "The eight-anna, four-anna, two-anna" shall be substituted, and after the words "at the rate of" the words "two, four," shall be inserted.

Amendment of the heading to section 16 and of section 20, Act III of 1906.

6. (*1*) In the heading to section 16 of the said Act, the word "Silver" shall be omitted.

(*2*) In section 20 of the said Act, after the word "Silver" where it first occurs the words "or nickel," and after the word "or" where it occurs for the last time the words "in the case of silver coin," shall be inserted.

ACT No. XXII OF 1919.[1]

[*24th September, 1919.*]

An Act further to amend the Cantonments Act, 1910.

WHEREAS it is expedient further to amend the [2]Cantonments Act, 1910; It is hereby enacted as follows:— XV of 1910.

Short title.

1. This Act may be called the Cantonments (Amendment) Act, 1919.

Amendment of section 24, Act XV of 1910.

2. In section 24 of the [2]Cantonments Act, 1910,— XV of 1910.

(1) for clause (*20*) the following clause shall be substituted, namely:—

> "(*20*) the prohibition of the practice of any profession or of the carrying on of any trade, calling or occupation in any part of the cantonment otherwise than in accordance with the conditions of a license; the fees payable for the grant and renewal of such licenses and the authorities by which and the conditions subject to which such licenses may be granted, refused, suspended and revoked." ;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 93; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 940 and 1322.
[2] General Acts, Vol. VII.

(2) in clause (*23*), the words "loitering or importuning for the purpose of" shall be omitted, and after the word "cantonment" where it first occurs the words "of prostitutes and procurers" shall be inserted.

ACT No. XXIII OF 1919.[1]

[*24th September, 1919.*]

An Act to amend the Cinematograph Act, 1918.

II of 1918. WHEREAS it is expedient to amend the [2]Cinematograph Act, 1918; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Cinematograph (Amendment) Act, 1919.

Amendment of section 1, Act II of 1918. II of 1918. **2.** For sub-section (*3*) of section 1 of the [2]Cinematograph Act, 1918 (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely:—

"(*3*) The Governor General in Council may, by notification in the Gazette of India, direct that the whole or any of its provisions shall come into force in any Province or part of a Province on such date as may be specified in the notification."

Amendment of section 5, Act II of 1918. **3.** In sub-section (*2*) of section 5 of the said Act, for the words "the prescribed authority" the words and figure "an authority constituted under section 7" shall be substituted.

Substitution of a new section for section 7, Act II of 1918. **4.** For section 7 of the said Act the following section shall be substituted, namely:—

Certification of films. "7. (*1*) Any Local Government authorised in this behalf by the Governor General in Council may, by notification in the local official Gazette, constitute as many authorities as it may think fit for the purposes of examining and certifying films as suitable for public exhibition, and declare the area (hereinafter referred to as the 'local area') within which each such authority shall exercise the powers conferred on it by this Act. Where an authority so constituted consists of a Board of two or more persons, not more than one-half of the members thereof shall be persons in the service of Government.

(*2*) If any such authority after examination considers that a film is suitable for public exhibition, it shall grant a certificate to that effect to

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 95; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 941 and 1323.

[2] General Acts, Vol. VIII.

the person applying for the same, and shall cause the film to be marked in the prescribed manner. The certificate of any such authority shall, save as hereinafter provided, be valid throughout the territories in which this Act is in force.

(*3*) (*a*) If the authority is of opinion that a film is not suitable for public exhibition in the local area, it shall inform the person applying for the certificate of its decision, and such person may, within thirty days from the date of such decision, appeal for a reconsideration of the matter by the Local Government by which the authority was constituted.

(*b*) If the Local Government rejects the appeal it shall, by notification in the local official Gazette, direct that the film shall be deemed to be an uncertified film in that local area, and such direction shall have effect notwithstanding the subsequent grant of a certificate in respect of the film by any other such authority.

(*4*) Any such authority may demand the exhibition before itself of any certified film which it has reason to believe is about to be publicly exhibited in its local area, and may by order suspend the certificate of any such film pending the orders of the Local Government and during such suspension the film shall be deemed to be an uncertified film in that area.

(*5*) The District Magistrate, or, in a Presidency-town or in the town of Rangoon, the Commissioner of Police, may by order suspend the certificate of any film pending the orders of the Local Government, and during such suspension the film shall be deemed to be an uncertified film in that district or town.

(*6*) A copy of any order of suspension made under sub-section (*4*) or (*5*), together with a statement of reasons therefor, shall forthwith be forwarded by the authority or the officer making the same to the Local Government by which the authority was constituted or to which the officer is subordinate, as the case may be, and such Local Government may, in its discretion, either discharge the order or, by notification in the local official Gazette, direct that the film shall be deemed to be an uncertified film in the whole or any part of the Province.

(*7*) A Local Government may, of its own motion, by notification in the local official Gazette, direct that a certified film shall be deemed to be an uncertified film in the whole or any part of the Province.

(*8*) The exhibition of a film to which any order or direction under clause (*b*) of sub-section (*3*) or sub-section (*4*), (*5*), (*6*) or (*7*) is for the time being applicable shall, in the area to which such order or direction relates, be deemed to be a contravention of the condition mentioned in sub-section (*2*) of section 5."

5. In section 8 of the said Act— Amendment of section 8, Act II of 1918.

(*1*) at the end of clause (*b*) of sub-section (*2*) the word "and" shall be omitted, and after the same clause, the following clause shall be inserted, namely:—

"(*bb*) the appointment of officers subordinate to authorities constituted under section 7 and the regulation of the powers and duties of such officers; and"; and

(*2*) for sub-section (*3*) the following sub-section shall be substituted, namely:—

"(*3*) The Governor General in Council may delegate to a Local Government, subject to such conditions and restrictions as he may impose, the power to make rules regarding all or any of the matters mentioned in sub-section (*2*) so far as regards the territories subject to that Government."

ACT No. XXVII OF 1919.[1]

[*25th September, 1919.*]

An Act to indemnify officers of Government and other persons in respect of certain acts done under martial law, and to provide for other matters in connection therewith.

WHEREAS owing to the recent disorders in certain districts in the Punjab and in other parts of India, martial law has been enforced;

And whereas it is expedient to indemnify officers of Government and other persons in respect of acts, matters and things ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order, provided that such acts, matters or things were ordered or done in good faith and in a reasonable belief that they were necessary for the said purposes;

And whereas certain persons have been convicted by courts and other authorities constituted or appointed under martial law, and it is expedient to confirm and provide for the continuance of certain sentences passed by such courts or authorities;

It is hereby enacted as follows:—

1. This Act may be called the Indemnity Act, 1919. Short title.

2. No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against any officer of Government, Indemnity of Government

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 116; and for Proceedings in Council, *see ibid*, 1919, Pt. VI, pp. 1123, 1332 and 1386.

officer and other person for certain acts.

whether civil or military, or against any other person acting under the orders of any such officer for or on account of or in respect of any act, matter or thing ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order in any part of British India where martial law was enforced, on or after the 30th of March, 1919, and before the 26th of August, 1919, by any such officer or person; provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes;

and if any such proceeding has been instituted before the passing of this Act it is hereby discharged.

Rules of evidence.

3. For the purposes of section 2 a certificate of a Secretary to Government that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.

Confirmation and continuance of martial law sentences.

4. Every person confined under and by virtue of any sentence passed by a court or other authority constituted or appointed under martial law and acting in a judicial capacity shall be deemed to have been lawfully confined and shall continue liable to confinement until the expiration of such sentence, or until released by the Governor General in Council or otherwise discharged by lawful authority.

Compensation in respect of loss attributable to certain acts.

5. Where under martial law the property of any person has been taken or used by any officer of Government, whether civil or military, the Governor General in Council shall pay to such person reasonable compensation for any loss immediately attributable to such taking or using, to be assessed upon failure of agreement by a person holding judicial office not inferior to that of a District Judge to be appointed by the Government in this behalf.

Savings.

6. Nothing in this Act shall—

(*a*) apply to any sentence passed or punishment inflicted by or under the orders of any Commission appointed under the Martial Law Ordinance, 1919, I of 1919.

(*b*) be deemed to bar a full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or to affect any question or matter to be decided therein, or

(*c*) prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatsoever.

ACT No. II OF 1920.[1]

[*11th February, 1920.*]

An Act further to amend the Indian Army Act, 1911.

VIII of 1911. WHEREAS it is expedient further to amend the [2]Indian Army Act, 1911; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Army (Amendment) Act, 1920.

Amendment of section 116, Act VIII of 1911. VIII of 1911. **2.** In section 116 of the [2]Indian Army Act, 1911, after the words "becoming insane" the following shall be added, namely:—

"or, who, being on active service, is officially reported missing:

Provided that, in the case of a person so reported missing, no action shall be taken under sub-sections (*2*) to (*5*), inclusive, of the said section, until one year has elapsed from the date of such report."

THE PROVINCIAL INSOLVENCY ACT, 1920.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 37, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 16 and 81.

[2] General Acts, Vol. VII.

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ACT No. V OF 1920.[1]

[*25th February, 1920.*]

An Act to consolidate and amend the Law relating to Insolvency in British India, as administered by Courts having jurisdiction outside the Presidency-towns and the Town of Rangoon.

WHEREAS it is expedient to consolidate and amend the law relating to insolvency in British India, as administered by Courts having jurisdiction outside the Presidency-towns and the Town of Rangoon; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Provincial Insolvency Act, 1920.

(*2*) It extends to the whole of British India, except the Scheduled Districts.[2]

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "creditor" includes a decree-holder, "debt" includes a judgment-debt, and "debtor" includes a judgment-debtor;

(*b*) "District Court" means the principal Civil Court of original jurisdiction in any area outside the local limits for the time being of the Presidency-towns and of the Town of Rangoon;

(*c*) "prescribed" means prescribed by rules made under this Act;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1918, Pt. V, p. 63; for Report of Select Committee, *see ibid*, 1919, Pt. V, p. 119, and *ibid*, 1920, Pt. V, p. 9; and for Proceedings in Council, *see ibid*, 1918, Pt. VI, pp. 761 and 1322, and *ibid*, 1920, Pt. VI, pp. 15 and 389.

[2] This Act has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to—

The province of Sind—*see* Gazette of India, 1920, Pt. I, p. 2052, and Bombay Government Gazette, 1920, Pt. I, p. 2765.

Coorg—*see* Gazette of India, 1920, Pt. II, p. 1333.

Upper Burma—*see* Burma Gazette, 1920, Pt. I, p. 1303.

Districts of Cachar (excluding the North Cachar Hills), Sylhet, Goalpara, Kamrup, Darrang, Nowgong (excluding the Nowgong Mikir Hills Tract), Sibsagar (excluding the Sibsagar Mikir Hills Tract) and Lakhimpur (excluding the Lakhimpur Frontier Tract)—*see* Assam Gazette, 1920, Pt. II, p. 2511.

District of Darjeeling—*see* Calcutta Gazette, 1921, Pt. I, p. 288.

(*d*) "property" includes any property over which or the profits of which any person has a disposing power which he may exercise for his own benefit;

(*e*) "secured creditor" means a person holding a mortgage, charge or lien on the property of the debtor or any part thereof as a security for a debt due to him from the debtor; and

(*f*) "transfer of property" includes a transfer of any interest in property and the creation of any charge upon property.

(*2*) Words and expressions used in this Act and defined in the [1]Code of Civil Procedure, 1908, and not hereinbefore defined shall have the same meanings as those respectively attributed to them by the said Code. V of 1908.

PART I.

CONSTITUTION AND POWERS OF COURT.

Insolvency jurisdiction.

3. (*1*) The District Courts shall be the Courts having jurisdiction under this Act:

Provided that the Local Government may, by notification in the local official Gazette, invest any Court subordinate to a District Court with jurisdiction in any class of cases, and any Court so invested shall within the local limits of its jurisdiction have concurrent jurisdiction with the District Court under this Act.

(*2*) For the purposes of this Act, a Court of Small Causes shall be deemed to be subordinate to the District Court.

Power of Court to decide all questions arising in insolvency.

4. (*1*) Subject to the provisions of this Act, the Court shall have full power to decide all questions whether of title or priority, or of any nature whatsoever, and whether involving matters of law or of fact, which may arise in any case of insolvency coming within the cognisance of the Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(*2*) Subject to the provisions of this Act and notwithstanding anything contained in any other law for the time being in force, every such decision shall be final and binding for all purposes as between, on the one hand, the debtor and the debtor's estate and, on the other hand, all claimants against him or it and all persons claiming through or under them or any of them.

(*3*) Where the Court does not deem it expedient or necessary to decide any question of the nature referred to in sub-section (*1*), but has reason to believe that the debtor has a saleable interest in any property,

[1] General Acts, Vol. VI.

the Court may without further inquiry sell such interest in such manner and subject to such conditions as it may think fit.

General powers of Courts.

5. (*1*) Subject to the provisions of this Act, the Court, in regard to proceedings under this Act, shall have the same powers and shall follow the same procedure as it has and follows in the exercise of original civil jurisdiction.

(*2*) Subject as aforesaid, High Courts and District Courts, in regard to proceedings under this Act in Courts subordinate to them, shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to civil suits.

PART II.

Proceedings from Act of Insolvency to Discharge.

Acts of Insolvency.

Acts of insolvency.

6. A debtor commits an act of insolvency in each of the following cases, namely:—

(*a*) if, in British India or elsewhere, he makes a transfer of all or substantially all his property to a third person for the benefit of his creditors generally;

(*b*) if, in British India or elsewhere, he makes a transfer of his property or of any part thereof with intent to defeat or delay his creditors;

(*c*) if, in British India or elsewhere, he makes any transfer of his property, or of any part thereof, which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged an insolvent;

(*d*) if, with intent to defeat or delay his creditors,—

(*i*) he departs or remains out of British India,

(*ii*) he departs from his dwelling-house or usual place of business or otherwise absents himself,

(*iii*) he secludes himself so as to deprive his creditors of the means of communicating with him;

(*e*) if any of his property has been sold in execution of the decree of any Court for the payment of money;

(*f*) if he petitions to be adjudged an insolvent under the provisions of this Act;

(*g*) if he gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts; or

(*h*) if he is imprisoned in execution of the decree of any Court for the payment of money.

Explanation.—For the purposes of this section the act of an agent may be the act of the principal.

Petition.

Petition and adjudication.

7. Subject to the conditions specified in this Act, if a debtor commits an act of insolvency, an insolvency petition may be presented either by a creditor or by the debtor, and the Court may on such petition make an order (hereinafter called an order of adjudication) adjudging him an insolvent.

Explanation.—The presentation of a petition by the debtor shall be deemed an act of insolvency within the meaning of this section, and on such petition the Court may make an order of adjudication.

Exemption of corporation, etc., from insolvency proceedings.

8. No insolvency petition shall be presented against any corporation or against any association or company registered under any enactment for the time being in force.

Conditions on which creditor may petition.

9. (*1*) A creditor shall not be entitled to present an insolvency petition against a debtor unless—

(*a*) the debt owing by the debtor to the creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to such creditors, amounts to five hundred rupees, and

(*b*) the debt is a liquidated sum payable either immediately or at some certain future time, and

(*c*) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition.

(*2*) If the petitioning creditor is a secured creditor, he shall in his petition either state that he is willing to relinquish his security for the benefit of the creditors in the event of the debtor being adjudged insolvent, or give an estimate of the value of the security. In the latter case, he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same way as if he were an unsecured creditor.

Conditions on which debtor may petition.

10. (*1*) A debtor shall not be entitled to present an insolvency petition, unless he is unable to pay his debts and—

(*a*) his debts amount to five hundred rupees; or

(*b*) he is under arrest or imprisonment in execution of the decree of any Court for the payment of money; or

(*c*) an order of attachment in execution of such a decree has been made, and is subsisting, against his property.

(*2*) A debtor in respect of whom an order of adjudication made under this Act has been annulled, owing to his failure to apply, or to prosecute an application for his discharge, shall not be entitled to present an insolvency petition without the leave of the Court by which the order of adjudication was annulled. Such Court shall not grant leave unless it is satisfied either that the debtor was prevented by any reasonable cause from presenting or prosecuting his application, as the case may be, or that the petition is founded on facts substantially different from those contained in the petition on which the order of adjudication was made.

Court to which petition shall be presented.

11. Every insolvency petition shall be presented to a Court having jurisdiction under this Act in any local area in which the debtor ordinarily resides or carries on business, or personally works for gain, or if he has been arrested or imprisoned, where he is in custody:

Provided that no objection as to the place of presentment shall be allowed by any Court in the exercise of appellate or revisional jurisdiction unless such objection was taken in the Court by which the petition was heard at the earliest possible opportunity, and unless there has been a consequent failure of justice.

Verification of petition.

12. Every insolvency petition shall be in writing and shall be signed and verified in the manner prescribed by the [1]Code of Civil Procedure, 1908, for signing and verifying plaints.

V of 1908.

Contents of petition.

13. (*1*) Every insolvency petition presented by a debtor shall contain the following particulars, namely:—

(*a*) a statement that the debtor is unable to pay his debts;

(*b*) the place where he ordinarily resides or carries on business or personally works for gain, or, if he has been arrested or imprisoned, the place where he is in custody;

(*c*) the Court (if any) by whose order he has been arrested or imprisoned, or by which an order has been made for the attachment of his property, together with particulars of the decree in respect of which any such order has been made;

(*d*) the amount and particulars of all pecuniary claims against him, together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by, him;

[1] General Acts, Vol. VI.

(*e*) the amount and particulars of all his property, together with—

(*i*) a specification of the value of all such property not consisting of money;

(*ii*) the place or places at which any such property is to be found; and

(*iii*) a declaration of his willingness to place at the disposal of the Court all such property save in so far as it includes such particulars (not being his books of account) as are exempted by the [1]Code of Civil Procedure, 1908, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree; V of 1908.

(*f*) a statement whether the debtor has on any previous occasion filed a petition to be adjudged an insolvent, and (where such a petition has been filed)—

(*i*) if such petition has been dismissed, the reasons for such dismissal, or

(*ii*) if the debtor has been adjudged an insolvent, concise particulars of the insolvency, including a statement whether any previous adjudication has been annulled and, if so, the grounds therefor.

(*2*) Every insolvency petition presented by a creditor or creditors shall set forth the particulars regarding the debtor specified in clause (*b*) of sub-section (*1*), and shall also specify—

(*a*) the act of insolvency committed by such debtor, together with the date of its commission; and

(*b*) the amount and particulars of his or their pecuniary claim or claims against such debtor.

Withdrawal of petitions.

14. No petition, whether presented by a debtor or by a creditor, shall be withdrawn without the leave of the Court.

Consolidation of petitions.

15. Where two or more insolvency petitions are presented against the same debtor, or where separate petitions are presented against joint debtors, the Court may consolidate the proceedings or any of them, on such terms as the Court thinks fit.

Power to change carriage of proceedings.

16. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of a petitioning creditor.

Continuance of proceedings on

17. If a debtor by or against whom an insolvency petition has been presented dies, the proceedings in the matter shall, unless the Court

[1] General Acts, Vol. VI.

otherwise orders, be continued so far as may be necessary for the realisation and distribution of the property of the debtor. death of debtor.

V of 1908. **18.** The procedure laid down in the [1]Code of Civil Procedure, 1908, with respect to the admission of plaints, shall, so far as it is applicable, be followed in the case of insolvency petitions. Procedure for admission of petition.

19. (*1*) Where an insolvency petition is admitted, the Court shall make an order fixing a date for hearing the petition. Procedure on admission of petition.

(*2*) Notice of the order under sub-section (*1*) shall be given to creditors in such manner as may be prescribed.

(*3*) Where the debtor is not the petitioner, notice of the order under sub-section (*1*) shall be served on him in the manner provided for the service of summons.

20. The Court when making an order admitting the petition may, and where the debtor is the petitioner ordinarily shall, appoint an interim receiver of the property of the debtor or of any part thereof, and may direct him to take immediate possession thereof or of any part thereof, and the interim receiver shall thereupon have such of the powers conferrable on a receiver appointed under the [1]Code of Civil V of 1908. Procedure, 1908, as the Court may direct. If an interim receiver is not so appointed, the Court may make such appointment at any subsequent time before adjudication, and the provisions of this sub-section shall apply accordingly. Appointment of interim receiver.

21. At the time of making an order admitting the petition or at any subsequent time before adjudication the Court may either of its own motion or on the application of any creditor make one or more of the following orders, namely:— Interim proceedings against debtor.

(1) order the debtor to give reasonable security for his appearance until final orders are made upon the petition, and direct that, in default of giving such security, he shall be detained in the civil prison;

(2) order the attachment by actual seizure of the whole or any part of the property in the possession or under the control of the debtor, other than such particulars (not being his books of account) as are exempted by the [1]Code of Civil V of 1908. Procedure, 1908, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree;

(3) order a warrant to issue with or without bail for the arrest of the debtor, and direct either that he be detained in the civil prison until the disposal of the petition, or that he be released on such terms as to security as may be reasonable and necessary:

[1] General Acts, Vol. VI.

Provided that an order under clause (2) or clause (3) shall not be made unless the Court is satisfied that the debtor, with intent to defeat or delay his creditors or to avoid any process of the Court,—

(*i*) has absconded or has departed from the local limits of the jurisdiction of the Court, or is about to abscond or to depart from such limits, or is remaining outside them, or

(*ii*) has failed to disclose or has concealed, destroyed, transferred or removed from such limits, or is about to conceal, destroy, transfer or remove from such limits, any documents likely to be of use to his creditors in the course of the hearing, or any part of his property other than such particulars as aforesaid.

Duties of debtors.

22. The debtor shall on the making of an order admitting the petition produce all books of account, and shall at any time thereafter give such inventories of his property, and such lists of his creditors and debtors and of the debts due to and from them, respectively, submit to such examination in respect of his property or his creditors, attend at such times before the Court or receiver, execute such instruments, and generally do all such acts and things in relation to his property as may be required by the Court or receiver, or as may be prescribed.

Release of debtor.

23. (*1*) At the time of making an order admitting the petition or at any subsequent time before adjudication, the Court may, if the debtor is under arrest or imprisonment in execution of the decree of any Court for the payment of money, order his release on such terms as to security as may be reasonable and necessary.

(*2*) The Court may at any time order any person who has been released under this section to be re-arrested and re-committed to the custody from which he was released.

(*3*) At the time of making any order under this section, the Court shall record in writing its reasons therefor.

Procedure at hearing.

24. (*1*) On the day fixed for the hearing of the petition, or on any subsequent day to which the hearing may be adjourned, the Court shall require proof of the following matters, namely:—

(*a*) that the creditor or the debtor, as the case may be, is entitled to present the petition:

Provided that, where the debtor is the petitioner, he shall, for the purpose of proving his inability to pay his debts, be required to furnish only such proof as to satisfy the Court that there are *primâ facie* grounds for believing the same and the Court, if and when so satisfied, shall not be bound to hear any further evidence thereon;

(*b*) that the debtor, if he does not appear on a petition presented by a creditor, has been served with notice of the order admitting the petition; and

(*c*) that the debtor has committed the act of insolvency alleged against him.

(*2*) The Court shall also examine the debtor, if he is present, as to his conduct, dealings and property in the presence of such creditors as appear at the hearing, and the creditors shall have the right to question the debtor thereon.

(*3*) The Court shall, if sufficient cause is shown, grant time to the debtor or to any creditor to produce any evidence which appears to it to be necessary for the proper disposal of the petition.

(*4*) A memorandum of the substance of the examination of the debtor and of any other oral evidence given shall be made by the Judge, and shall form part of the record of the case.

Dismissal of petition.

25. (*1*) In the case of a petition presented by a creditor, where the Court is not satisfied with the proof of his right to present the petition or of the service on the debtor of notice of the order admitting the petition, or of the alleged act of insolvency, or is satisfied by the debtor that he is able to pay his debts, or that for any other sufficient cause no order ought to be made, the Court shall dismiss the petition.

(*2*) In the case of a petition presented by a debtor, the Court shall dismiss the petition if it is not satisfied of his right to present the petition.

Award of compensation.

26. (*1*) Where a petition presented by a creditor is dismissed under sub-section (*1*) of section 25, and the Court is satisfied that the petition was frivolous or vexatious, the Court may, on the application of the debtor, award against such creditor such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the debtor for the expense or injury occasioned to him by the petition and the proceedings thereon, and such amount may be realised as if it were a fine.

(*2*) An award under this section shall bar any suit for compensation in respect of such petition and the proceedings thereon.

Order of Adjudication.

Order of adjudication.

27. (*1*) If the Court does not dismiss the petition, it shall make an order of adjudication, and shall specify in such order the period within which the debtor shall apply for his discharge.

(*2*) The Court may, if sufficient cause is shown, extend the period within which the debtor shall apply for his discharge, and in that case shall publish notice of the order in such manner as it thinks fit.

Effect of an order of adjudication.

28. (*1*) On the making of an order of adjudication, the insolvent shall aid to the utmost of his power in the realisation of his property and the distribution of the proceeds among his creditors.

(*2*) On the making of an order of adjudication, the whole of the property of the insolvent shall vest in the Court or in a receiver as hereinafter provided, and shall become divisible among the creditors, and thereafter, except as provided by this Act, no creditor to whom the insolvent is indebted in respect of any debt provable under this Act shall during the pendency of the insolvency proceedings have any remedy against the property of the insolvent in respect of the debt, or commence any suit or other legal proceeding, except with the leave of the Court and on such terms as the Court may impose.

(*3*) For the purposes of sub-section (*2*), all goods being at the date of the presentation of the petition on which the order is made, in the possession, order or disposition of the insolvent in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof, shall be deemed to be the property of the insolvent.

(*4*) All property which is acquired by or devolves on the insolvent after the date of an order of adjudication and before his discharge shall forthwith vest in the Court or receiver, and the provisions of sub-section (*2*) shall apply in respect thereof.

(*5*) The property of the insolvent for the purposes of this section shall not include any property (not being books of account) which is exempted by the [1]Code of Civil Procedure, 1908, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree. V of 1908.

(*6*) Nothing in this section shall affect the power of any secured creditor to realise or otherwise deal with his security, in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

(*7*) An order of adjudication shall relate back to, and take effect from, the date of the presentation of the petition on which it is made.

Stay of pending proceeding.

29. Any Court in which a suit or other proceeding is pending against a debtor shall, on proof that an order of adjudication has been made against him under this Act, either stay the proceeding, or allow it to continue on such terms as such Court may impose.

Publication of order of adjudication.

30. Notice of an order of adjudication stating the name, address and description of the insolvent, the date of the adjudication, the period within which the debtor shall apply for his discharge, and the Court by which the adjudication is made, shall be published in the local official Gazette and in such other manner as may be prescribed.

[1] General Acts, Vol. VI.

Proceedings consequent on order of Adjudication.

Protection order.

31. (*1*) Any insolvent in respect of whom an order of adjudication has been made may apply to the Court for protection, and the Court may on such application make an order for the protection of the insolvent from arrest or detention.

(*2*) A protection order may apply either to all the debts of the debtor, or to any of them as the Court may think proper, and may commence and take effect at and for such time as the Court may direct, and may be revoked or renewed as the Court may think fit.

(*3*) A protection order shall protect the insolvent from being arrested or detained in prison for any debt to which such order applies, and any insolvent arrested or detained contrary to the terms of such an order shall be entitled to his release:

Provided that no such order shall operate to prejudice the rights of any creditor in the event of such order being revoked or the adjudication annulled.

(*4*) Any creditor shall be entitled to appear and oppose the grant of a protection order.

Power to arrest after adjudication

32. At any time after an order of adjudication has been made, the Court may, if it has reason to believe on the application of any creditor or the receiver that the debtor has absconded or departed from the local limits of its jurisdiction with intent to avoid any obligation which has been, or might be, imposed on him by or under this Act, order a warrant to issue for his arrest, and on his appearing or being brought before it, may, if satisfied that he was absconding or had departed with such intent, order his release on such terms as to security as may be reasonable or necessary, or, if such security is not furnished, direct that he shall be detained in the civil prison for a period which may extend to three months.

Schedule of creditors.

33. (*1*) When an order of adjudication has been made under this Act, all persons alleging themselves to be creditors of the insolvent in respect of debts provable under this Act shall tender proof of their respective debts by producing evidence of the amount and particulars thereof, and the Court shall, by order, determine the persons who have proved themselves to be creditors of the insolvent in respect of such debts, and the amount of such debts, respectively, and shall frame a schedule of such persons and debts:

Provided that, if, in the opinion of the Court, the value of any debt is incapable of being fairly estimated, the Court may make an order to that effect, and thereupon the debt shall not be included in the schedule.

(*2*) A copy of every such schedule shall be posted in the Court-house.

(*3*) Any creditor of the insolvent may, at any time before the discharge of the insolvent, tender proof of his debt and apply to the Court for an order directing his name to be entered in the schedule as a creditor in respect of any debt provable under this Act, and not entered in the schedule, and the Court, after causing notice to be served on the insolvent and the other creditors who have proved their debts, and hearing their objections (if any), shall comply with or reject the application.

Debts provable under the Act.

34. (*1*) Debts which have been excluded from the schedule on the ground that their value is incapable of being fairly estimated and demands in the nature of unliquidated damages arising otherwise than by reason of a contract or a breach of trust shall not be provable under this Act.

(*2*) Save as provided by sub-section (*1*), all debts and liabilities, present or future, certain or contingent, to which the debtor is subject when he is adjudged an insolvent, or to which he may become subject before his discharge by reason of any obligation incurred before the date of such adjudication, shall be deemed to be debts provable under this Act.

Annulment of Adjudication.

Power to annul adjudication of insolvency.

35. Where, in the opinion of the Court, a debtor ought not to have been adjudged insolvent, or where it is proved to the satisfaction of the Court that the debts of the insolvent have been paid in full, the Court shall, on the application of the debtor, or of any other person interested, by order in writing, annul the adjudication.

Power to cancel one of concurrent orders of adjudication.

36. If, in any case in which an order of adjudication has been made, it shall be proved to the Court by which such order was made that insolvency proceedings are pending in another Court against the same debtor, and that the property of the debtor can be more conveniently distributed by such other Court, the Court may annul the adjudication or stay all proceedings thereon.

Proceedings on annulment.

37. (*1*) Where an adjudication is annulled, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the Court or receiver, shall be valid; but, subject as aforesaid, the property of the debtor who was adjudged insolvent shall vest in such person as the Court may appoint, or, in default of any such appointment, shall revert to the debtor to the extent of his right or interest therein on such conditions (if any) as the Court may, by order in writing, declare.

(*2*) Notice of every order annulling an adjudication shall be published in the local official Gazette and in such other manner as may be prescribed.

Compositions and schemes of arrangement.

Compositions and schemes

38. (*1*) Where a debtor, after the making of an order of adjudication, submits a proposal for a composition in satisfaction of his debts, or a

proposal for a scheme of arrangement of his affairs, the Court shall fix a date for the consideration of the proposal, and shall issue a notice to all creditors in such manner as may be prescribed. of arrangement.

(*2*) If, on the consideration of the proposal, a majority in number and three-fourths in value of all the creditors whose debts are proved and who are present in person or by pleader, resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors.

(*3*) The debtor may at the meeting amend the terms of his proposal if the amendment is, in the opinion of the Court, calculated to benefit the general body of creditors.

(*4*) Where the Court is of opinion, after hearing the report of the receiver, if a receiver has been appointed, and after considering any objections which may be made by or on behalf of any creditor, that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors, the Court shall refuse to approve the proposal.

(*5*) If any facts are proved on proof of which the Court would be required either to refuse, suspend or attach conditions to the debtor's discharge, the Court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than six annas in the rupee on all the unsecured debts provable against the debtor's estate.

(*6*) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of an insolvent.

(*7*) In any other case the Court may either approve or refuse to approve the proposal.

39. If the Court approves the proposal, the terms shall be embodied in an order of the Court, and the Court shall frame a schedule in accordance with the provisions of section 33, the order of adjudication shall be annulled, and the provisions of section 37 shall apply, and the composition or scheme shall be binding on all the creditors entered in the said schedule so far as relates to any debts entered therein. Order on approval.

40. If default is made in the payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, readjudge the debtor insolvent and annul the composition or scheme but without prejudice to the validity of any transfer or payment duly made or of anything duly done under or in pursuance of the composition or scheme. When a debtor is re-adjudged insolvent under this section, all debts provable in other respects which have been contracted before the date of such re-adjudication shall be provable in the insolvency. Power to readjudge debtor insolvent.

Discharge.

Discharge.

41. (*1*) A debtor may, at any time after the order of adjudication and shall, within the period specified by the Court, apply to the Court for an order of discharge, and the Court shall fix a day, notice whereof shall be given in such manner as may be prescribed, for hearing such application, and any objections which may be made thereto.

(*2*) Subject to the provisions of this section, the Court may, after considering the objections of any creditor and, where a receiver has been appointed, the report of the receiver—

(*a*) grant or refuse an absolute order of discharge; or

(*b*) suspend the operation of the order for a specified time; or

(*c*) grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the insolvent, or with respect to his after-acquired property.

Cases in which Court must refuse an absolute discharge.

42. (*1*) The Court shall refuse to grant an absolute order of discharge under section 41 on proof of any of the following facts, namely:—

(*a*) that the insolvent's assets are not of a value equal to eight annas in the rupee on the amount of his unsecured liabilities, unless he satisfies the Court that the fact that the assets are not of a value equal to eight annas in the rupee on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible;

(*b*) that the insolvent has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his insolvency;

(*c*) that the insolvent has continued to trade after knowing himself to be insolvent;

(*d*) that the insolvent has contracted any debt provable under this Act without having at the time of contracting it any reasonable or probable ground of expectation (the burden of proving which shall lie on him) that he would be able to pay it;

(*e*) that the insolvent has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;

(*f*) that the insolvent has brought on, or contributed to, his insolvency by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;

(*g*) that the insolvent has, within three months preceding the date of the presentation of the petition, when unable to pay his debts as they became due, given an undue preference to any of his creditors;

(*h*) that the insolvent has on any previous occasion been adjudged an insolvent or made a composition or arrangement with his creditors;

(*i*) that the insolvent has concealed or removed his property or any part thereof, or has been guilty of any other fraud or fraudulent breach of trust.

(*2*) For the purposes of this section, the report of the receiver shall be deemed to be evidence; and the Court may presume the correctness of any statement contained therein.

(*3*) The powers of suspending, and of attaching conditions to, an insolvent's discharge may be exercised concurrently.

Adjudication to be annulled on failure to apply for discharge.

43. (*1*) If the debtor does not appear on the day fixed for hearing his application for discharge or on such subsequent day as the Court may direct, or if the debtor does not apply for an order of discharge within the period specified by the Court, the order of adjudication shall be annulled, and the provisions of section 37 shall apply accordingly.

(*2*) Where a debtor has been released from custody under the provisions of this Act and the order of adjudication is annulled under subsection (*1*), the Court may, if it thinks fit, re-commit the debtor to his former custody, and the officer in charge of the prison to whose custody such debtor is so re-committed shall receive such debtor into his custody according to such re-commitment, and thereupon all processes which were in force against the person of such debtor at the time of such release as aforesaid shall be deemed to be still in force against him as if no order of adjudication had been made.

Effect of order of discharge.

44. (*1*) An order of discharge shall not release the insolvent from—

(*a*) any debt due to the Crown;

(*b*) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party;

(*c*) any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party; or

(*d*) any liability under an order for maintenance made under section 488 of the [1]Code of Criminal Procedure, 1898. V of 1898.

[1] General Acts, Vol. V.

(*2*) Save as otherwise provided by sub-section (*1*), an order of discharge shall release the insolvent from all debts provable under this Act.

(*3*) An order of discharge shall not release any person who, at the date of the presentation of the petition, was a partner or co-trustee with the insolvent, or was jointly bound or had made any joint contract with him or any person who was surety for him.

PART III.

ADMINISTRATION OF PROPERTY.

Method of proof of debts.

Debt payable at a future time.

45. A creditor may prove for a debt not payable when the debtor is adjudged an insolvent as if it were payable presently, and may receive dividends equally with the other creditors, deducting therefrom only a rebate of interest at the rate of six per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

Mutual dealings and set-off.

46. Where there have been mutual dealings between an insolvent and a creditor proving or claiming to prove a debt under this Act, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively.

Secured creditors.

47. (*1*) Where a secured creditor realises his security, he may prove for the balance due to him, after deducting the net amount realised.

(*2*) Where a secured creditor relinquishes his security for the general benefit of the creditors, he may prove for his whole debt.

(*3*) Where a secured creditor does not either realise or relinquish his security, he shall, before being entitled to have his debt entered in the schedule, state in his proof the particulars of his security, and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

(*4*) Where a security is so valued, the Court may at any time before realisation redeem it on payment to the creditor of the assessed value.

(*5*) Where a creditor, after having valued his security, subsequently realises it, the net amount realised shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

(6) Where a secured creditor does not comply with the provisions of this section, he shall be excluded from all share in any dividend.

Interest.

48. (1) On any debt or sum certain whereon interest is not reserved or agreed for, and which is overdue when the debtor is adjudged an insolvent, and which is provable under this Act, the creditor may prove for interest at a rate not exceeding six per centum per annum—

(a) if the debt or sum is payable by virtue of a written instrument at a certain time, from the time when such debt or sum was payable to the date of such adjudication; or,

(b) if the debt or sum is payable otherwise, from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment to the date of such adjudication.

(2) Where a debt which has been proved under this Act includes interest or any pecuniary consideration in lieu of interest, the interest or consideration shall, for the purposes of dividend be calculated at a rate not exceeding six per centum per annum, without prejudice to the right of a creditor to receive out of the debtor's estate any higher rate of interest to which he may be entitled after all the debts proved have been paid in full.

Mode of proof.

49. (1) A debt may be proved under this Act by delivering, or sending by post in a registered letter, to the Court an affidavit verifying the debt.

(2) The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers (if any) by which the same can be substantiated. The Court may at any time call for the production of the vouchers.

Disallowance and reduction of entries in schedule.

50. (1) Where the receiver thinks that a debt has been improperly entered in the schedule, the Court may, on the application of the receiver and after notice to the creditor, and such inquiry (if any) as the Court thinks necessary, expunge such entry or reduce the amount of the debt.

(2) The Court may also, after like inquiry, expunge an entry or reduce the amount of a debt upon the application of a creditor where no receiver has been appointed, or where the receiver declines to interfere in the matter or, in the case of a composition or scheme, upon the application of the debtor.

Effect of insolvency on antecedent transactions.

Restriction of rights of

51. (1) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution

creditor under execution.

against the receiver except in respect of assets realised in the course of the execution by sale or otherwise before the date of the admission of the petition.

(2) Nothing in this section shall affect the rights of a secured creditor in respect of the property against which the decree is executed.

(3) A person who in good faith purchases the property of a debtor under a sale in execution shall in all cases acquire a good title to it against the receiver.

Duties of Court executing decree as to property taken in execution.

52. Where execution of a decree has issued against any property of a debtor which is saleable in execution and before the sale thereof notice is given to the Court executing the decree that an insolvency petition by or against the debtor has been admitted, the Court shall, on application, direct the property, if in the possession of the Court, to be delivered to the receiver, but the costs of the suit in which the decree was made and of the execution shall be a first charge on the property so delivered, and the receiver may sell the property or an adequate part thereof for the purpose of satisfying the charge.

Avoidance of voluntary transfer.

53. Any transfer of property not being a transfer made before and in consideration of marriage or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration shall, if the transferor is adjudged insolvent within two years after the date of the transfer, be voidable as against the receiver and may be annulled by the Court.

Avoidance of preference in certain cases.

54. (1) Every transfer of property, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, with a view of giving that creditor a preference over the other creditors, shall, if such person is adjudged insolvent on a petition presented within three months after the date thereof, be deemed fraudulent and void as against the receiver, and shall be annulled by the Court.

(2) This section shall not affect the rights of any person who in good faith and for valuable consideration has acquired a title through or under a creditor of the insolvent.

Protection of *bonâ fide* transactions.

55. Subject to the foregoing provisions of this Act with respect to the effect of insolvency on an execution, and with respect to the avoidance of certain transfers and preferences, nothing in this Act shall invalidate in the case of an insolvency—

(*a*) any payment by the insolvent to any of his creditors;

(*b*) any payment or delivery to the insolvent;

(*c*) any transfer by the insolvent for valuable consideration; or

(*d*) any contract or dealing by or with the insolvent for valuable consideration:

Provided that any such transaction takes place before the date of the order of adjudication, and that the person with whom such transaction takes place has not at the time notice of the presentation of any insolvency petition by or against the debtor.

Realisation of Property.

Appointment of receiver.

56. (*1*) The Court may, at the time of the order of adjudication, or at any time afterwards, appoint a receiver for the property of the insolvent, and such property shall thereupon vest in such receiver.

(*2*) Subject to such conditions as may be prescribed, the Court may—

(*a*) require the receiver to give such security as it thinks fit duly to account for what he shall receive in respect of the property; and

(*b*) by general or special order, fix the amount to be paid as remuneration for the services of the receiver out of the assets of the insolvent.

(*3*) Where the Court appoints a receiver, it may remove the person in whose possession or custody any such property as aforesaid is from the possession or custody thereof:

Provided that nothing in this section shall be deemed to authorise the Court to remove from the possession or custody of property any person whom the insolvent has not a present right so to remove.

(*4*) Where a receiver appointed under this section—

(*a*) fails to submit his accounts at such periods and in such form as the Court directs, or

(*b*) fails to pay the balance due from him thereon as the Court directs, or

(*c*) occasions loss to the property by his wilful default or gross negligence,

the Court may direct his property to be attached and sold, and may apply the proceeds to make good any balance found to be due from him or any loss so occasioned by him.

(*5*) The provisions of this section shall apply, so far as may be, to interim receivers appointed under section 20.

Power to appoint Official Receivers.

57. (*1*) The Local Government may appoint such persons as it thinks fit (to be called "Official Receivers") to be receivers under this Act within such local limits as it may prescribe.

(*2*) Where any Official Receiver has been so appointed for the local limits of the jurisdiction of any Court having jurisdiction under this Act, he shall be the receiver for the purpose of every order appointing

a receiver or an interim receiver issued by any such Court, unless the Court for special reasons otherwise directs.

(*3*) Any sum payable under clause (*b*) of sub-section (*2*) of section 56 in respect of the services of an Official Receiver shall be credited to such fund as the Local Government may direct.

(*4*) Every Official Receiver shall receive such remuneration out of the said fund or otherwise as the Local Government may fix in this behalf, and no remuneration whatever beyond that so fixed shall be received by the Official Receiver as such.

Powers of Court if no receiver appointed.

58. Where no receiver is appointed, the Court shall have all the rights of, and may exercise all the powers conferred on, a receiver under this Act.

Duties and powers of receiver.

59. Subject to the provisions of this Act, the receiver shall, with all convenient speed, realise the property of the debtor and distribute dividends among the creditors entitled thereto, and for that purpose may—

(*a*) sell all or any part of the property of the insolvent;

(*b*) give receipts for any money received by him;

and may, by leave of the Court, do all or any of the following things, namely:—

(*c*) carry on the business of the insolvent so far as may be necessary for the beneficial winding up of the same;

(*d*) institute, defend or continue any suit or other legal proceeding relating to the property of the insolvent;

(*e*) employ a pleader or other agent to take any proceedings or do any business which may be sanctioned by the Court;

(*f*) accept as the consideration for the sale of any property of the insolvent a sum of money payable at a future time subject to such stipulations as to security and otherwise as the Court thinks fit;

(*g*) mortgage or pledge any part of the property of the insolvent for the purpose of raising money for the payment of his debts;

(*h*) refer any dispute to arbitration, and compromise all debts, claims and liabilities, on such terms as may be agreed upon; and

(*i*) divide in its existing form amongst the creditors, according to its estimated value, any property which, from its peculiar nature or other special circumstances, cannot readily or advantageously be sold.

Special provisions in regard to immoveable property.

60. (*1*) In any local area in which a declaration has been made under section 68 of the [1]Code of Civil Procedure, 1908, and is in force, no sale of immoveable property paying revenue to the Government or held or let for agricultural purposes shall be made by the receiver; but, after the other property of the insolvent has been realised, the Court shall ascertain— V of 1908.

(*a*) the amount required to satisfy the debts proved under this Act after deducting the monies already received;

(*b*) the immoveable property of the insolvent remaining unsold; and

(*c*) the incumbrances (if any) existing thereon;

and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by paragraphs 2 to 10 of the Third Schedule to the said Code as he thinks fit, and subject to the provisions of those paragraphs so far as they are applicable, and shall hold at the disposal of the Court all sums that may come to his hands by the exercise of such powers.

(*2*) Nothing in this Act shall be deemed to affect any provisions of any enactment for the time being in force prohibiting or restricting the execution of decrees or orders against immoveable property; and any such provisions shall be deemed to apply to the enforcement of an order of adjudication made under this Act as if it were such a decree or order.

Distribution of Property.

Priority of debts.

61. (*1*) In the distribution of the property of the insolvent, there shall be paid in priority to all other debts—

(*a*) all debts due to the Crown or to any local authority; and

(*b*) all salary or wages, not exceeding twenty rupees in all, of any clerk, servant or labourer in respect of services rendered to the insolvent during four months before the date of the presentation of the petition.

(*2*) The debts specified in sub-section (*1*) shall rank equally between themselves, and shall be paid in full, unless the property of the insolvent is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(*3*) Subject to the retention of such sums as may be necessary for the expenses of administration or otherwise, the debts specified in sub-section (*1*) shall be discharged forthwith in so far as the property of the insolvent is sufficient to meet them.

[1] General Acts, Vol. VI.

(*4*) In the case of partners, the partnership property shall be applicable in the first instance in payment of the partnership debts, and the separate property of each partner shall be applicable in the first instance in payment of his separate debts. Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.

(*5*) Subject to the provisions of this Act, all debts entered in the schedule shall be paid rateably according to the amounts of such debts respectively and without any preference.

(*6*) Where there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date on which the debtor is adjudged an insolvent at the rate of six per centum per annum on all debts entered in the schedule.

Calculation of dividends.

62. (*1*) In the calculation of dividends, the receiver shall retain in his hands sufficient assets to meet—

(*a*) debts provable under this Act and appearing, from the insolvent's statements or otherwise, to be due to persons resident in places so distant that in the ordinary course of communication they have not had sufficient time to tender their proofs;

(*b*) debts provable under this Act, the subject of claims not yet determined;

(*c*) disputed proofs or claims; and

(*d*) the expenses necessary for the administration of the estate or otherwise.

(*2*) Subject to the provisions of sub-section (*1*), all money in hand shall be distributed as dividends.

Right of creditor who has not proved debt before declaration of a dividend.

63. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid, out of any money for the time being in the hands of the receiver, any dividend or dividends which he may have failed to receive before that money is applied to the payment of any future dividend or dividends; but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

64. When the receiver has realised all the property of the insolvent or so much thereof as can, in the opinion of the Court, be realised without needlessly protracting the receivership, he shall declare a final dividend; but before so doing, he shall give notice in manner pres-

cribed to the persons whose claims to be creditors have been notified but not proved, that if they do not prove their claims within the time limited by the notice, he will proceed to make a final dividend without regard to their claims. After the expiration of the time so limited, or if the Court, on application by any such claimant, grants him further time for establishing his claim, then on the expiration of such further time, the property of the insolvent shall be divided among the creditors entered in the schedule without regard to the claims of any other persons.

No suit for dividend.

65. No suit for a dividend shall lie against the receiver; but where the receiver refuses to pay any dividend, the Court may, on the application of any creditor who is entered in the schedule, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

Management by and allowance to insolvent.

66. (*1*) The Court may appoint the insolvent himself to superintend the management of the property of the insolvent or of any part thereof, or to carry on the trade (if any) of the insolvent for the benefit of the creditors, and in any other respect to aid in administering the property in such manner and on such terms as the Court may direct.

(*2*) The Court may, from time to time, make such allowance as it may think just to the insolvent out of his property for the support of himself and his family, or in consideration of his services if he is engaged in winding up his estate; but any such allowance may, at any time, be varied or determined by the Court.

Right of insolvent to surplus.

67. The insolvent shall be entitled to any surplus remaining after payment in full of his creditors with interest as provided by this Act, and of the expenses of the proceedings taken thereunder.

Appeal to Court against receiver.

Appeal to Court against receiver.

68. If the insolvent or any of the creditors or any other person is aggrieved by any act or decision of the receiver, he may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just:

Provided that no application under this section shall be entertained after the expiration of twenty-one days from the date of the act or decision complained of.

PART IV.

PENALTIES.

Offences by debtors.

69. If a debtor, whether before or after the making of an order of adjudication,—

(*a*) wilfully fails to perform the duties imposed on him by section 22 or to deliver up possession of any part of his property

which is divisible among his creditors under this Act, and which is for the time being in his possession or under his control to the Court or to any person authorised by the Court to take possession of it, or

(*b*) fraudulently with intent to conceal the state of his affairs or to defeat the objects of this Act,—

(*i*) has destroyed or otherwise wilfully prevented or purposely withheld the production of any document relating to such of his affairs as are subject to investigation under this Act, or

(*ii*) has kept or caused to be kept false books, or

(*iii*) has made false entries in or withheld entries from or wilfully altered or falsified any document relating to such of his affairs as are subject to investigation under this Act, or

(*c*) fraudulently with intent to diminish the sum to be divided among his creditors or to give an undue preference to any of his creditors,—

(*i*) has discharged or concealed any debt due to or from him, or

(*ii*) has made away with, charged, mortgaged or concealed any part of his property of any kind whatsoever,

he shall be punishable on conviction by the Court with imprisonment which may extend to one year.

Procedure on charge under section 69

70. (*1*) Where the Court is satisfied that there is ground for inquiring into any offence referred to in section 69, the Court shall direct that a notice be served on the debtor in the manner prescribed in the [1]Code of Criminal Procedure, 1898, for service of a summons, calling on him to show cause why a charge or charges should not be framed against him. V of 1898.

(*2*) The notice shall set forth the substance of the offence, and any number of offences may be set forth in the same notice.

(*3*) At the hearing of such notice and of any charge framed in pursuance thereof, the Court shall, so far as may be, follow the procedure for the trial of warrant cases by Magistrates prescribed by Chapter XXI of the [1]Code of Criminal Procedure, 1898, and nothing in Chapter XXIII of the said Code relating to trials before High Courts and Courts of Session shall be applicable to such trial. V of 1898.

(*4*) Any number of offences under this section may be charged at the same time:

[1] General Acts, Vol. V.

Provided that no debtor shall be sentenced to imprisonment exceeding an aggregate period of two years for offences under this section committed in the course of the same insolvency proceeding.

(*5*) The Court may, instead of itself inquiring into an offence under section 69, make a complaint thereof in writing to the nearest Magistrate of the first class having jurisdiction, and such Magistrate shall deal with such complaint in the manner laid down in the [1]Code of Criminal Procedure, 1898:

V of 1898.

Provided that it shall not be necessary to examine the complainant.

Criminal liability after discharge or composition.

71. Where an insolvent has been guilty of any of the offences specified in section 69, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

Undischarged insolvent obtaining credit.

72. (*1*) An undischarged insolvent obtaining credit to the extent of fifty rupees or upwards from any person without informing such person that he is an undischarged insolvent shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

(*2*) Where the Court has reason to believe that an undischarged insolvent has committed the offence referred to in sub-section (*1*), the Court, after making any preliminary inquiry that may be necessary, may send the case for trial to the nearest Magistrate of the first class, and may send the accused in custody or take sufficient security for his appearance before such Magistrate; and may bind over any person to appear and give evidence on such trial.

Disqualifications of insolvent.

73. (*1*) Where a debtor is adjudged or re-adjudged insolvent under this Act, he shall, subject to the provisions of this section, be disqualified from—

(*a*) being appointed or acting as a Magistrate;

(*b*) being elected to any office of any local authority where the appointment to such office is by election or holding or exercising any such office to which no salary is attached; and

(*c*) being elected or sitting or voting as member of any local authority.

(*2*) The disqualifications which an insolvent is subject to under this section shall be removed, and shall cease if—

(*a*) the order of adjudication is annulled under section 35, or

(*b*) he obtains from the Court an order of discharge, whether absolute or conditional, with a certificate that his insolvency was caused by misfortune without any misconduct on his part.

[1] General Acts, Vol. V.

(*3*) The Court may grant or refuse such certificate as it thinks fit, but any order of refusal shall be subject to appeal.

PART V.

SUMMARY ADMINISTRATION.

Summary administration.

74. When a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise that the property of the debtor is not likely to exceed in value five hundred rupees, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications, namely:—

(*i*) unless the Court otherwise directs, no notice required under this Act shall be published in the local official Gazette;

(*ii*) on the admission of a petition by a debtor, the property of the debtor shall vest in the Court as a receiver;

(*iii*) at the hearing of the petition, the Court shall inquire into the debts and assets of the debtor and determine the same by order in writing, and it shall not be necessary to frame a schedule under the provisions of section 33;

(*iv*) the property of the debtor shall be realised with all reasonable despatch and thereafter, when practicable, distributed in a single dividend;

(*v*) the debtor shall apply for his discharge within six months from the date of adjudication; and

(*vi*) such other modifications as may be prescribed with the view of saving expense and simplifying procedure:

Provided that the Court may at any time direct that the ordinary procedure provided for in this Act shall be followed in regard to the debtor's estate, and thereafter the Act shall have effect accordingly.

PART VI.

APPEALS.

Appeal.

75. (*1*) The debtor, any creditor, the receiver or any other person aggrieved by a decision come to or an order made in the exercise of insolvency jurisdiction by a Court subordinate to a District Court may appeal to the District Court, and the order of the District Court upon such appeal shall be final:

Provided that the High Court, for the purpose of satisfying itself that an order made in any appeal decided by the District Court was according to law, may call for the case and pass such order with respect thereto as it thinks fit:

Provided, further, that any such person aggrieved by a decision of the District Court on appeal from a decision of a subordinate Court under section 4 may appeal to the High Court on any of the grounds mentioned in sub-section (*1*) of section 100 of the [1]Code of Civil Procedure, 1908.

V of 1908.

(*2*) Any such person aggrieved by any such decision or order of a District Court as is specified in Schedule I, come to or made otherwise than in appeal from an order made by a subordinate Court, may appeal to the High Court.

(*3*) Any such person aggrieved by any other order made by a District Court otherwise than in appeal from an order made by a subordinate Court may appeal to the High Court by leave of the District Court or of the High Court.

(*4*) The periods of limitation for appeals to the District Court and to the High Court under this section shall be thirty days and ninety days, respectively.

PART VII.

MISCELLANEOUS.

Costs.

76. The costs of any proceeding under this Act, including the costs of maintaining a debtor in the civil prison, shall, subject to any rules made under this Act, be in the discretion of the Court in which the proceeding is had.

Courts to be auxiliary to each other.

77. All Courts having jurisdiction in insolvency and the officers of such Courts, respectively, shall severally act in aid of and be auxiliary to each other in all matters of insolvency, and an order of a Court seeking aid with a request to another of the said Courts shall be deemed sufficient to enable the latter Court to exercise, in regard to the matters directed by the order, such jurisdiction as either of such Courts could exercise in regard to similar matters within their respective jurisdictions.

Limitation.

78. (*1*) The provisions of sections 5 and 12 of the [1]Indian Limitation Act, 1908, shall apply to appeals and applications under this Act, and for the purpose of the said section 12, a decision under section 4 shall be deemed to be a decree.

IX of 1908.

(*2*) Where an order of adjudication has been annulled under this Act, in computing the period of limitation prescribed for any suit or application for the execution of a decree (other than a suit or application

[1] General Acts, Vol. VI.

in respect of which the leave of the Court was obtained under sub-section (*2*) of section 28) which might have been brought or made but for the making of an order of adjudication under this Act, the period from the date of the order of adjudication to the date of the order of annulment shall be excluded:

Provided that nothing in this section shall apply to a suit or application in respect of a debt provable but not proved under this Act.

Power to make rules.

79. (*1*) The High Court may, with the previous sanction, in the case of the High Court of Judicature at Fort William in Bengal, of the Governor General in Council, and, in the case of any other High Court, of the Local Government, make rules for carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide—

(*a*) for the appointment and remuneration of receivers (other than Official Receivers), the audit of the accounts of all receivers and the costs of such audit,

(*b*) for meetings of creditors,

(*c*) for the procedure to be followed where the debtor is a firm, and

(*d*) for the procedure to be followed in the case of estates to be administered in a summary manner.

(*3*) All rules made under this section shall be published in the Gazette of India or in the local official Gazette, as the case may be, and shall, on such publication, have effect as if enacted in this Act.

Delegation of powers to Official Receivers.

80. (*1*) The High Court, with the like sanction, may from time to time direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, the Official Receiver shall, subject to the directions of the Court, have all or any of the following powers, namely:—

(*a*) to hear insolvency petitions, to examine the debtor and to make orders of adjudication;

(*b*) to frame schedules and to admit or reject proofs of creditors;

(*c*) to grant orders of discharge;

(*d*) to approve compositions or schemes of arrangement;

(*e*) to make interim orders in any case of urgency; and

(*f*) to hear and determine any unopposed or *ex-parte* application.

(*2*) Subject to the appeal to the Court provided for by section 68, any order made or act done by the Official Receiver in the exercise of the said powers shall be deemed the order or act of the Court.

Power of Local Government to bar application of certain provisions to certain Courts.

81. Any Local Government [1]* * * may, by notification in the local official Gazette, declare that any of the provisions of this Act specified in Schedule II shall not apply to insolvency proceedings in any Court or Courts having jurisdiction under this Act in any part of the territories administered by such Local Government.

Savings.

82. Nothing in this Act shall—

III of 1909. VI of 1900.

(*a*) affect the Presidency-towns Insolvency Act, 1909, or section 8 of the Lower Burma Courts Act, 1900,[2] or

XVII of 1879.

(*b*) apply to cases to which Chapter IV of the Dekkhan Agriculturists Relief Act, 1879, is applicable.

Repeals.

83. (*1*) The enactments mentioned in Schedule III are hereby repealed to the extent specified in the fourth column thereof.

(*2*) Where in any enactment or instrument in force at the date of the commencement of this Act, reference is made to Chapter XX (of Insolvent Judgment-debtors) of the Code of Civil Procedure, 1877[3] or of the Code of Civil Procedure, 1882[3], or to any section of either of those Chapters, such reference shall, so far as may be practicable, be construed as applying to this Act or to the corresponding section thereof.

X of 1877. XIV of 1882.

SCHEDULE I.

[*See section 75 (2).*]

Decisions and Orders from which an appeal lies to the High Court under section 75 (2).

Section.	Nature of decision or order.
4	Decision of questions of title, priority, etc., arising in insolvency.
25	Order dismissing a petition.
26	Order awarding compensation.
27	Order of adjudication.
33	Orders regarding entries in the schedule.
35	Order annulling adjudication.
37	Order declaring the conditions on which the debtor's property shall revert to him on annulment of adjudication.
41	Order on application for discharge.

[1] The words " with the previous sanction of the Governor General in Council " were omitted by s. 2 & Sch. I of the Devolution Act, 1920 (XXXVIII of 1920), *infra*.

[2] This Act has been repealed by the Repealing and Amending Act, 1923 (XI of 1923), *infra*.

[3] *See* now the Code of Civil Procedure, 1908 (V of 1908), Genl. Acts, Vol. VI.

SCHEDULE I—*contd.*

Section.	Nature of decision or order.
50	Order disallowing or reducing entries in the schedule.
53	Order annulling a voluntary transfer
54	Decision that a transfer of property is a preference in favour of a creditor.
69	Conviction and sentence of debtor for an offence under this section.

SCHEDULE II.

(*See section 81.*)

Provisions of the Act application of which may be barred by Local Governments.

Provisions of the Act.	Subject.
Section.	
26	Award of compensation.
28 sub-section (*3*)	Reputed property of an insolvent.
34	Debts provable under the Act.
38	Compositions and schemes of arrangement.
39	
40	
42, sub-sections (*1*) and (*2*).	Obligation to refuse absolute discharge.
45	Method of proof of debts.
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51	Effect of insolvency on antecedent transactions
52	
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SCHEDULE II—*contd.*

Provisions of the Act.	Subject.
Section.	
61 [except clause (*a*) of sub-section (*1*) and sub-section (*4*)].	Priority of debts
62	Dividends.
63	
64	
65	
66	Management by and allowance to insolvent.
72	Penalty for obtaining of credit by undischarged insolvent.

SCHEDULE III.

ENACTMENTS REPEALED.

(*See section 83.*)

Year.	No.	Short title.	Extent of repeal.
1907	III	The Provincial Insolvency Act, 1907.	So much as has not been repealed.
1914	IV	The Decentralization Act, 1914.	In Schedule I, Part I, the entry relating to Act III of 1907.
„	X	The Repealing and Amending Act, 1914.	In Schedule I, the entries relating to Act III of 1907.

ACT No. VI OF 1920.[1]

[*25th February, 1920.*]

An Act to amend the Inland Steam-vessels Act, 1917.

I of 1917.

WHEREAS it is expedient to amend the [2]Inland Steam-vessels Act, 1917; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Inland Steam-vessels (Amendment) Act, 1920.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 8; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 48 and 396.
[2] General Acts, Vol. VIII.

Insertion of new section 22A in Act I of 1917.

2. After section 22 of the [1]Inland Steam-vessels Act, 1917 (hereinafter referred to as the said Act), the following section shall be inserted, namely:— I of 1917.

Licences.

"22A. (*1*) The Local Government may also, in its discretion, grant—

(*a*) to a person who is in possession of a second-class master's certificate granted under section 21 or section 22, and has, by virtue of such certificate, acted as master of an inland steam-vessel having engines of forty or more nominal horse-power for a period of not less than five years, or

(*b*) to a person who is in possession of first-class engine-driver's certificate granted under section 21 or section 22, or an engine-driver's certificate granted under the [2]Indian Steamships Act, 1884, and has, by virtue of such certificate, served as an engine-driver of an inland steam-vessel having engines of not less than seventy nominal horse-power for five years, for not less than two and a half years of which period he has been the engine-driver of such vessel within the meaning of section 26, VII of 1884.

a licence authorising such person to act as master or engineer, as the case may be, of any inland steam-vessel having engines of one hundred and seventy nominal horse-power or of such less nominal horse-power as to such Government may deem fit.

(*2*) Any such licence shall remain in force only for such time as the person holding the same is in possession of and entitled to a master's or an engine-driver's certificate, as the case may be, of the nature referred to in sub-section (*1*):

Provided that the Local Government may, in its discretion, suspend, cancel or vary the conditions of any such licence."

Amendment of section 23, Act I of 1917.

3. In section 23 of the said Act, after the word "service" the words "and every licence" shall be inserted, and after the words "entitled to the certificate" the words "or licence" shall be inserted.

Amendment of section 24, Act I of 1917.

4. In section 24 of the said Act, after the word "certificate" in each place where it occurs, the words "or licence" shall be inserted.

Amendment of section 25, Act I of 1917.

5. In section 25 of the said Act—

(1) for the word "eighty" the words "one hundred" shall be substituted.

(2) In clause (*a*), after the words and figures "Merchant Shipping Act, 1894," the following words shall be inserted, namely:—

"or a master's licence granted under section 22A and applicable to such vessel and voyage."

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[1] General Acts, Vol. VIII.

[2] *See* now the Indian Merchant Shipping Act, 1923 (XXI of 1923), *infra*.

(3) At the end of clause (*b*) the following words shall be added, namely:—

"or an engine-driver's licence granted under section 22A and applicable to such vessel and voyage."

Amendment of section 26, Act I of 1917.

6. In section 26 of the said Act, for the word "thirty" the word "forty," and for the word "eighty" the words "one hundred," shall be substituted.

Amendment of section 27, Act I of 1917.

7. In section 27 of the said Act, for the word "thirty" the word "forty" shall be substituted.

Insertion of new section 30A in Act I of 1917.

8. After section 30 of the said Act the following section shall be inserted, namely:—

Power for Local Government to make rules as to grant of licences.

"30A. The Local Government may also make rules to regulate the granting of licences under section 22A, and may by such rules prescribe in particular—

(*a*) the fees (if any) to be paid for such licences, and

(*b*) the forms in which such licences are to be framed and the authority by whom and the manner in which copies are to be kept and recorded under section 23."

Amendment of section 31, Act I of 1917.

9. (*1*) In section 31 of the said Act, after the word "service" where it first occurs the words "and licences" shall be inserted.

(*2*) In clause (*ii*) of the said section, after the word "serang" the words "and a licence" shall be inserted.

(*3*) In the provisos to the said section, after the word "certificate" in each place where it occurs, the words "or licence" shall be inserted.

Amendment of section 59, Act I of 1917.

10. (*1*) In clause (*a*) of section 59 of the said Act, after the words "engine-driver's certificate" the words "or a master's or engine-driver's licence" shall be inserted.

(*2*) In clause (*b*) of the said section, after the words "such certificate" the words "or licence" shall be added.

ACT No. VIII OF 1920.[1]

[*4th March, 1920.*]

An Act to amend the Dourine Act, 1910.

U of 1910.

WHEREAS it is expedient to amend the [2]Dourine Act, 1910; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Dourine (Amendment) Act, 1920.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 56; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 402 and 499.

[2] General Acts, Vol. VII.

Amendment of section 5, Act V of 1910.

2. In section 5 of the [1]Dourine Act, 1910 (hereinafter referred to as the said Act), V of 1910.—

(1) the word " and " at the end of clause (*a*) shall be omitted; and

(2) after clause (*b*) the following clause shall be added, namely:—

" (*c*) direct, by order in writing, the owner or keeper of any horse which, in the opinion of the Inspectors, is affected with dourine to remove it or permit it to be removed for the purpose of segregation to a place specified in the order, and such direction shall be sufficient authority for the detention of the horse in that place for that purpose."

Amendment of section 6, Act V of 1910.

3. In section 6 of the said Act, the word and letter " clause (*b*) " shall be omitted.

Amendment of section 8, Act V of 1910.

4. In section 8 of the said Act—

(1) in clause (*a*) the word and letter " clause (*b*) " shall be omitted; and

(2) in clause (*b*)—

(*a*) after the words " on microscopical examination " the words " or by other scientific test " shall be inserted; and

(*b*) for sub-clause (*ii*) the following shall be substituted, namely:—

" (*ii*) in the case of a mare, with the previous sanction of such authority as the Local Government may appoint in this behalf, or, if so empowered by the Local Government, without such sanction, cause it to be destroyed."

Amendment of section 14, Act V of 1910.

5. In sub-section (*2*) of section 14 of the said Act—

(1) for clause (*a*) the following shall be substituted, namely:—

" (*a*) regulate the exercise of the powers conferred on Inspectors under section 5 "; and

(2) the word " and " at the end of clause (*b*) and the whole of clause (*c*) shall be omitted.

Amendment of section 15, Act V of 1910.

6. For clauses (*b*) and (*c*) of section 15 of the said Act the following shall be substituted, namely:—

" (*b*) any horse in respect of which an order under clause (*b*) or clause (*c*) of section 5 is in force."

[1] General Acts, Vol. VII.

ACT No. IX OF 1920[1].

[*4th March, 1920.*]

An Act further to amend the law relating to Glanders and Farcy.

WHEREAS it is expedient further to amend the law relating to Glanders and Farcy; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Glanders and Farcy (Amendment) Act, 1920.

XIII of 1899.

Extension of Act to camels.

2. In section 2 (*2*) of the [2]Glanders and Farcy Act, 1899, the word "camels" shall be inserted between the words "to" and "asses".

Substitution of new section for s. 3, Act XIII of 1899.

3. For section 3 of the same Act the following section shall be substituted, namely:—

Application of Act to local areas by Local Government.

"3. (*1*) The Local Government may, by notification in the local official Gazette, apply this Act or any provision of this Act to any local area, to be specified in such notification, within the province.

(*2*) In any such notification the Local Government may further direct that the Act or any provision so applied shall apply in respect of—

(*a*) all or any of the diseases mentioned or specified in a notification under section 2, sub-section (*1*),

(*b*) all animals or any class of animals mentioned in section 2, sub-section (*2*)."

THE INDIAN SECURITIES ACT, 1920.

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[2] General Acts, Vol. V.

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ACT No. X OF 1920[1].

[*11th March, 1920.*]

An Act to consolidate and amend the law relating to Government securities.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Securities Act, 1920;

(*2*) It extends to the whole of British India, including British Baluchistan; and

(*3*) It shall come into force on the first day of April, 1920.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Government security" means promissory notes (including treasury bills), stock-certificates, bearer bonds and all other securities issued by the Governor General in Council or by any Local Government in respect of any loan contracted either before or after the passing of this Act, but does not include a currency-note; and

(*b*) "prescribed" means prescribed by rules made under this Act.

Notice of trust not receivable save as provided.

3. (*1*) Save as otherwise provided in or under this Act, no notice of any trust in respect of any Government security shall be receivable by the Government.

(*2*) The Government shall not be deemed to have received notice of any trust by reason only of the fact that it has recognised an indorsement on a Government security by an executor or administrator as such, nor shall it inquire into the terms of any will by which such executor or administrator may be bound, but, on being satisfied of the due appointment of such executor or administrator, it shall be entitled to treat him as the full owner of any Government security belonging to the estate of the person whom he represents.

Right of survivors of joint or several payees of Government securities.

IX of 1872.

4. (*1*) Notwithstanding anything in section 45 of the [2]Indian Contract Act, 1872,—

(*a*) when a Government security is payable to two or more persons jointly, and either or any of them dies, the security shall be payable to the survivor or survivors of those persons, and

[1] For Statement of Objects and Reasons, *see* Gazette of India, Extraordinary, dated 29th October 1919, p. 529; for Report of Select Committee, *see* Gazette of India, 1920, Pt. V, p. 39, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, p. 734.

[2] General Acts, Vol. II.

(*b*) when a Government security is payable to two or more persons severally, and either or any of them dies, the security shall be payable to the survivor or survivors of those persons, or to the representative of the deceased, or to any of them.

(*2*) This section shall apply whether such death occurred or occurs before or after this Act comes into force.

(*3*) Nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which sub-section (*1*) applies.

Indorsements to be made on security itself.

5. Notwithstanding anything in section 15 of the [1]Negotiable Instruments Act, 1881, no indorsement of a Government promissory note shall be valid unless made by the signature of the holder inscribed on the back of the security itself. XXVI of 1881.

Holding of Government securities by holders of public offices.

6. (*1*) In the case of any public office to which the Governor General in Council may, by notification in the Gazette of India, declare[2] this sub-section to apply, a Government security may be made or indorsed payable to or to the order of the holder of the office by the name of the office.

(*2*) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(*3*) When the holder of the office indorses to a third party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(*4*) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office by the name of the office, shall not be deemed to be or to have been invalid by reason only of the security having been so made or indorsed.

(*5*) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

Issue of securities to rulers of States in India.

7. Notwithstanding anything in the [1]Negotiable Instruments Act, 1881, the Governor General in Council may, in respect of any loan, issue to the ruler of any State in India Government securities in such form and subject to such conditions as to negotiability, succession and other matters as may be prescribed. XXVI of 1881.

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[1] General Acts, Vol. III.

[2] For offices to which this sub-section has been applied, *see* the List of General Statutory Rules and Orders.

XXVI of 1881.

8. Notwithstanding anything in the [1]Negotiable Instruments Act, 1881, a person shall not, by reason only of his having indorsed a Government security, be liable to pay any money due, either as principal or as interest, thereunder. Indorser of Government security not liable for amount thereof.

9. (*1*) The signature of the person authorised to sign Government securities on behalf of the Government may be printed, engraved or lithographed, or impressed by such other mechanical process as the Governor General in Council may direct on the securities. Impression of signature on Government securities.

(*2*) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

Issue of duplicate, renewed, converted, consolidated or sub-divided securities.

10. (*1*) When a Government security is alleged to have been lost or destroyed either wholly or in part, and a person claims to be the person to whom but for the loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim and on payment of the prescribed fee, if any, obtain from him an order for— Issue of duplicate securities.

(*a*) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(*b*) the issue of a duplicate security payable to the applicant.

(*2*) An order shall not be passed under sub-section (*1*) until after the issue of the prescribed notification of the loss or destruction.

(*3*) A list of the securities in respect of which an order is passed under sub-section (*1*) shall be published in the prescribed manner.

11. The holder of a bearer bond or other Government security payable to bearer may, on application to the prescribed officer, on delivery of the bearer bond or other security, and on payment of the prescribed fee, if any, obtain from such officer a renewed bearer bond or other security, as the case may be. Renewal of bearer bonds.

12. Subject to the provisions of section 13, a person claiming to be entitled to a Government promissory note, may, on applying to the prescribed officer, and on satisfying him of the justice of his claim and delivering the promissory note receipted in the prescribed manner, and paying the prescribed fee, if any, obtain from such officer a renewed promissory note payable to him: Renewal of promissory notes.

Provided that, when application is made for the renewal of a Government promissory note which appears to the prescribed officer to

[1] General Acts, Vol. III.

stand in the name of a deceased member of a Hindu undivided family governed by the *Mitakshara* law, a renewed promissory note shall not be issued to the applicant unless he furnishes a certificate signed by such authority and after such inquiry as may be prescribed to the effect that the deceased belonged to a Hindu undivided family governed by the *Mitakshara* law, that the promissory note formed part of the joint property of the family, and that the applicant is the managing or sole surviving male member of the family.

Explanation.—The expression "Hindu undivided family governed by the *Mitakshara* law" shall, for the purposes of this section, be deemed to include a Malabar *taruad.*

Renewal of promissory notes in case of dispute as to title.

13. (*1*) Where there is a dispute as to the title to a Government promissory note in respect of which an application for renewal has been made, the prescribed officer may—

(*a*) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such note, issue a renewed note in favour of such party, or

(*b*) refuse to renew the note until such a decision has been obtained, or

(*c*) after such inquiry as is hereinafter provided and consideration of the result thereof, declare by order in writing which of the parties is in his opinion entitled to such note and may, after the expiration of three months from the date of such declaration, issue a renewed note in favour of such party in accordance with the provisions of section 12, unless within that period he has received notice that proceedings have been instituted by any person in a Court of competent jurisdiction for the purpose of establishing a title to such note.

Explanation.—For the purposes of this sub-section the expression "final decision" means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(*2*) For the purpose of the inquiry referred to in sub-section (*1*), the prescribed officer may himself record, or may request the District Magistrate to record or to have recorded, the whole or any part of such evidence as the parties may produce. When such request has been made to the District Magistrate, such Magistrate may himself record or may direct any Magistrate of the first-class subordinate to him, or any Magistrate of the second-class subordinate to him and empowered by general or special order of the Local Government in this behalf, to record the evidence, and shall forward a copy thereof to the prescribed officer.

Explanation.—For the purposes of this sub-section, the District Magistrate means the District Magistrate having jurisdiction in the place where interest on the promissory note is payable and, where interest is payable at a presidency-town, the Chief Presidency Magistrate, or at a place in a State in India, the Political Agent.

(*3*) The prescribed officer or any Magistrate acting under this section may, if he thinks fit, record evidence on oath.

Renewal of other securities.

14. Government securities other than those mentioned in sections 11 and 12 may be renewed in such circumstances and in such manner as may be prescribed.

Issue of converted, etc., securities.

15. (*1*) The prescribed officer may, subject to such conditions as may be prescribed, on the application of a person claiming to be entitled to a Government security or securities, on being satisfied of the justice of the claim and on delivery of the security or securities receipted in the prescribed manner and on payment of the prescribed fee, if any, convert, consolidate or sub-divide the security or securities, and issue to the applicant a new security or securities accordingly.

(*2*) The conversion, consolidation, or sub-division referred to in sub-section (*1*) may be into a security or securities of the same or different classes or of the same or different loans.

Liability in respect of promissory note renewed, etc.

16. (*1*) When a renewed Government promissory note has been issued under section 12, or a new Government promissory note has been issued upon conversion, consolidation or sub-division under section 15, in favour of any person, the note so issued shall be deemed to constitute a new contract between the Government and such person and all persons deriving title thereafter through him.

(*2*) No such renewal, conversion, consolidation or sub-division shall affect the rights as against the Government of any other person to the security or securities so renewed, converted, consolidated or sub-divided.

Discharge.

Immediate discharge in certain cases.

17. On payment by or on behalf of the Government to the holder of a bearer bond or other Government security payable to bearer of the amount expressed therein on or after the date when it becomes due, or on renewal of a bearer bond or other security payable to bearer under section 11, or on renewal of a Government promissory note under section 13, or on conversion, consolidation or sub-division of a bearer bond or other security payable to bearer under section 15, the Government shall be discharged in the same way and to the same extent as if such bearer bond, promissory note or other security were a promissory note payable to bearer:

Provided that, in the case of a Government promissory note renewed under section 13, nothing in this section shall be deemed to bar a claim

against the Government in respect of such note by any person who had no notice of the proceedings under that section, or who derives title through any such person.

Discharge in other cases.

18. Save as otherwise provided in this Act—

(*i*) on payment of the amount due on a Government security on or after the date on which payment becomes due, or

(*ii*) when a duplicate security has been issued under section 10, or

(*iii*) when a renewed security has been issued under section 12 or section 13, or a new security or securities has or have been issued upon conversion, consolidation or sub-division under section 15,

the Government shall be discharged from all liability in respect of the security or securities so paid or in place of which a duplicate, renewed, or new security or securities has or have been issued—

(*a*) in the case of payment—after the lapse of six years from the date on which payment was due;

(*b*) in the case of a duplicate security—after the lapse of six years from the date of the publication under sub-section (*3*) of section 10 of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is later;

(*c*) in the case of a renewed security or of a new security issued upon conversion, consolidation or sub-division—after the lapse of six years from the date of the issue thereof.

Summary procedure in certain cases.

Procedure on death of holder of securities not exceeding an aggregate value of five thousand rupees.

19. (*1*) If within six months of the death of a person who was entitled to a Government security or securities (other than a security payable to bearer) the nominal or face value of which does not in the aggregate exceed five thousand rupees, probate of the will or letters of administration of the estate of such person or a certificate granted under the [1]Succession Certificate Act, 1889, is not produced to the prescribed officer, such officer may, after inquiry in the manner provided in sub-sections (*2*) and (*3*) of section 13, determine who is the person entitled to the security or securities or to administer the estate of the deceased, and may— VII of 1889.

(*a*) in the case of any such security relating to a loan due for repayment, authorise payment of the amount due thereon to such person; and

[1] General Acts, Vol. IV.

(*b*) in the case of any such security relating to a loan not due for repayment, authorise, in the case of a promissory note, the renewal of such promissory note in favour of such person, or, in the case of stock, the registration of the name of such person in substitution for the name of the deceased.

(*2*) Upon the payment or renewal of any promissory note in accordance with sub-section (*1*), the Government shall be discharged from all liability in respect of the note so paid or renewed; and any substitution of names made in accordance with clause (*b*) of sub-section (*1*) shall, for the purposes of any claim against the Government, be deemed to have effected a valid transfer of the stock in respect of which it was made.

(*3*) Any creditor or claimant against the estate of the deceased may recover his debt or claim out of money paid to any person under sub-section (*1*) and remaining in his hands unadministered in the same manner and to the same extent as if the said person had obtained letters of administration of the estate of the deceased, and nothing in this section shall affect any claim of an executor or administrator or other representative of the deceased against such person other than a claim to recover amounts lawfully paid by him in due course of administration of the estate of the deceased.

Securities held by minors and lunatics.

Payment in case of securities held by minors and lunatics.

20. Where a Government security stands in the name of or is held by a minor or a person who is insane and incapable of managing his affairs, the interest accruing thereon, or the capital sum payable in respect thereof on the maturity or discharge of the loan, shall, where, in the case of interest payable, the nominal value of the security, or in other cases the sum payable, does not exceed five thousand rupees, be paid in such manner as may be prescribed, and on any payment being so made, the Government shall, notwithstanding any provision of any enactment to the contrary, be discharged from all liability in respect thereof.

Indemnity.

Indemnity.

21. Notwithstanding anything in section 10, 12, 13 or 15, the prescribed officer may in any case arising under any of those sections—

(*i*) issue a duplicate or renewed security or convert, consolidate or sub-divide a security or securities upon the applicant giving the prescribed indemnity against the claims of all persons claiming under the original security or under the security or securities so renewed, converted, consolidated or sub-divided, as the case may be, or

(*ii*) refuse to issue a duplicate or renewed security or to convert, consolidate or sub-divide a security or securities unless such indemnity is given.

Inspection of registers, books and documents.

Inspection of documents.

22. No person shall be entitled to inspect, or to receive information derived from, any Government security in the possession of the Government or from any book, register or other document kept or maintained by or on behalf of Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

Penalty.

Penalty.

23. (*1*) If any person, for the purpose of obtaining for himself or for any other person payment of interest or of the capital sum due in respect of any Government security, or the issue of a duplicate security, or the renewal, conversion, consolidation or sub-division of a Government security or securities, makes to any authority under this Act a statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(*2*) No Court shall take cognizance of any offence under sub-section (*1*) save on the complaint of the authority to whom the false statement was made.

Rules.

Power to make rules.

24. (*1*) The Governor General in Council may after previous publication make rules[1] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which payment of interest in respect of Government securities is to be made and acknowledged;

(*b*) the circumstances in which Government securities must be renewed before further payment of interest thereon can be claimed;

(*c*) the form in which and the conditions subject to which Government securities may be issued to the rulers of States in India;

(*d*) the fees to be paid in respect of the issue of duplicate securities and of the renewal, conversion, consolidation and sub-division of Government securities;

[1] For notification publishing such rules, *see* the List of General Statutory Rules and Orders.

(*e*) the proof which is to be produced by persons applying for duplicate securities;

(*f*) the form and manner of publication of the notification mentioned in sub-section (*2*) of section 10 and the manner of publication of the list mentioned in sub-section (*3*) of that section;

(*g*) the officer who is to exercise all or any of the powers and to perform all or any of the duties referred to in sections 10, 11, 12, 13, 15, 19 and 21;

(*h*) the manner of making the inquiry mentioned in the proviso to section 12;

(*i*) the circumstances and the manner in which securities other than securities payable to bearer or promissory notes are to be renewed;

(*j*) the form in which securities delivered for discharge, renewal, conversion, consolidation or sub-division are to be receipted;

(*k*) the conditions subject to which securities may be converted, consolidated or sub-divided;

(*l*) the person to whom and the manner in which payments are to be made in respect of Government securities standing in the name of, or held by, minors or persons who are insane and incapable of managing their affairs;

(*m*) the taking of indemnities against adverse claims of third parties from persons who receive payment of interest or of the capital sum due in respect of Government securities, or who obtain duplicate, renewed, converted, consolidated or sub-divided securities;

(*n*) the manner in which any document relating to Government securities or any indorsement on a Government promissory note may, on the demand of any person who from any cause is unable to write, be executed on his behalf;

(*o*) enabling holders of Government stock to be described in the registers of such stock as trustees, and either as trustees of any particular trust or as trustees without qualification, and for the recognition of powers of attorney granted by holders of stock so described;

(*p*) the holding of Government stock by the holders of offices other than public offices, and the manner in which and the conditions subject to which stock so held may be transferred;

(*q*) the mode of attestation of documents relating to Government stock;

(*r*) generally, all matters connected with the grant of duplicate, renewed, converted, consolidated and sub-divided securities; and

(*s*) the circumstances and the manner in which and the conditions subject to which inspection of securities, books, registers and other documents may be allowed or information therefrom may be given under section 22.

(*3*) Nothing in any rules made under clauses (*o*) and (*p*) shall, as between any trustees or as between any trustees and the beneficiaries under a trust, be deemed to authorise the trustees to act otherwise than in accordance with the rules of law applying to the trust and the terms of the instrument constituting the trust; and neither the Government nor any person holding or acquiring any interest in any Government stock shall by reason only of any entry in any register maintained by or on behalf of the Government in relation to any Government stock or any stockholder, or of anything in any document relating to Government stock, be affected with notice of any trust or of the fiduciary character of any stockholder or of any fiduciary obligation attaching to the holding of any Government stock.

(*4*) Rules made under this section shall be published in the Gazette of India, and shall thereupon have effect as if enacted in this Act.

Repeals.

Repeals.

25. On and from the date on which this Act comes into force, the Indian Securities Act, 1886, and so much of the First and Second Schedules of the [1]Repealing and Amending Act, 1914, as relates to the Indian Securities Act, 1886, shall be repealed. XIII of 1886. X of 1914. XIII of 1886.

ACT No. XI OF 1920.[2]

[*11th March, 1920.*]

An Act further to amend the Presidency-towns Insolvency Act, 1909.

WHEREAS it is expedient further to amend the [3]Presidency-towns Insolvency Act, 1909; It is hereby enacted as follows:— III of 1909.

1. This Act may be called the Presidency-towns Insolvency (Amendment) Act, 1920. Short title.

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[1] General Acts, Vol. VIII.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 60; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 491 and 734.
[3] General Acts, Vol. VI.

III of 1909.

2. After section 103 of the [1]Presidency-towns Insolvency Act, 1909, the following section shall be inserted, namely:— Insertion of new section 103A in Act III of 1909.

"103A. (*1*) Where a debtor is adjudged or re-adjudged insolvent under this Act, he shall, subject to the provisions of this section, be disqualified from— Disqualifications of insolvent.

(*a*) being appointed or acting as a Magistrate;

(*b*) being elected to any office of any local authority where the appointment to such office is by election, or holding or exercising any such office to which no salary is attached; and

(*c*) being elected or sitting or voting as a member of any local authority.

(*2*) The disqualifications which an insolvent is subject to under this section shall be removed, and shall cease if—

(*a*) the order of adjudication is annulled under sub-section (*1*) of section 21, or

(*b*) he obtains from the Court an order of discharge, whether absolute or conditional, with a certificate that his insolvency was caused by misfortune without any misconduct on his part.

(*3*) The Court may grant or refuse such certificate as it thinks fit."

ACT No. XII OF 1920.[2]

[*12th March, 1920.*]

An Act further to amend the Workman's Breach of Contract Act, 1859.

WHEREAS it is expedient further to amend the [3]Workman's Breach of XIII of 1859. Contract Act, 1859; It is hereby enacted as follows:—

1. This Act may be called the Workman's Breach of Contract (Amendment) Act, 1920. Short title.

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[1] General Acts, Vol. VI.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 114; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 47, and for Proceedings in Council, *see ibid*, 1919, Pt. VI, p. 1117, and *ibid*, 1920, Pt. VI, pp. 56, 499 and 724.

This Act has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the District of Coorg, *see* Gazette of India, 1920, Pt. II, p. 1610.

[3] General Acts, Vol. I.

Amendment of section 1, Act XIII of 1859.

2. (*1*) Section 1 of the [1]Workman's Breach of Contract Act, 1859 (hereinafter referred to as the said Act), shall be re-numbered sub-section (*1*) of section 1. XIII of 1859.

(*2*) In the said sub-section—

(*a*) after the words "an advance of money" the words "not exceeding three hundred rupees" shall be inserted; and

(*b*) the words "and the Magistrate shall thereupon issue" to the end of the section shall be omitted.

(*3*) To the said section the following sub-sections shall be added, namely:—

"(*2*) The Magistrate shall at once examine the complainant on oath, and may thereupon dismiss the complaint if in his opinion there is no sufficient ground for proceeding.

(*3*) If in the opinion of the Magistrate there is sufficient ground for proceeding, he shall issue a summons or warrant, as he may think proper, for bringing before him such artificer, workman or labourer, and shall hear and determine the case."

Substitution of new sections for section 2, Act XIII of 1859.

3. For section 2 of the said Act the following sections shall be substituted, namely:—

Order for repayment of advance or performance of contract.

"2. (*1*) If it shall be proved to the satisfaction of the Magistrate that such artificer, workman or labourer has received money in advance, not exceeding three hundred rupees, from the complainant on account of any such work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate may in his discretion either order such artificer, workman or labourer to repay the money advanced, or such part thereof as may be just and proper, within such period and in such instalments, if any, as the Magistrate thinks fit, or order him to perform or get performed such work within such period, not exceeding one year, as the Magistrate may determine and otherwise according to the terms of the contract:

Provided that no such order shall be made—

(*a*) unless the complaint was brought within three months of the neglect or refusal; or

[1] General Acts, Vol. I.

(*b*) if it is proved that the complainant has on any previous occasion obtained an order under this sub-section against such artificer, workman or labourer.

Explanation.—Where no time has been fixed for the performance of a contract, neglect may be presumed to have occurred on the expiry of such period as the Magistrate deems to be a reasonable time for the performance thereof.

(*2*) If such artificer, workman or labourer shall fail to comply with an order made under sub-section (*1*), the Magistrate may sentence him to imprisonment for a period not exceeding three months, or, if the order be for the repayment of a sum of money, for a period which may extend to three months or until repayment is made, whichever period is shorter:

Provided that, where any instalment has been ordered, no sentence of imprisonment exceeding one month shall be passed for default in payment of any one instalment, and the aggregate of such sentences shall not exceed three months.

(*3*) The Magistrate may, from time to time, extend the period for repayment of money advanced or for the performance of work, as the case may be, and may vary the instalments:

Provided that no order shall be made under this sub-section extending beyond one year from the date of the order under sub-section (*1*) the period within which the work is to be performed.

(*4*) No repayment of any money or order therefor shall deprive the complainant of any civil remedy whether for the recovery of any money advanced and remaining unpaid or otherwise, which he may have otherwise than under this Act.

Inequitable contracts not to be enforced.

2A. The Magistrate may in his discretion refuse to make an order under section 2 where in his opinion the contract in respect of a breach of which the complaint has been made was substantially unfair.

Compensation in false or frivolous or vexatious complaints.

2B. (*1*) If in any proceedings under this Act the Magistrate is of opinion that the complaint was false to the knowledge of the complainant or was frivolous or vexatious, he may in his discretion call upon the complainant forthwith to show cause why he should not pay compensation to the person complained against.

(*2*) The Magistrate shall consider any cause which such complainant may show, and, if after so doing he is satisfied that the accusation was false to the knowledge of the complainant or was frivolous or vexatious, he may, for reasons to be recorded, direct that compensation not exceeding fifty rupees be paid by the complainant to the person complained against.

(*3*) Compensation for the payment of which an order is made under sub-section (*2*) shall be recoverable as if it were a fine, and the Magistrate

may, by the order directing payment of the same, further order that in default of payment the complainant shall suffer simple imprisonment for a period which may extend to thirty days or until payment is made, whichever period is shorter."

Amendment of section 3, Act XIII of 1859.

4. In section 3 of the said Act, for the words " to be imprisoned with hard labour " the words " to imprisonment " shall be substituted.

Substitution of new section for section 4, Act XIII of 1859.

5. For section 4 of the said Act the following section shall be substituted, namely:—

To what contracts Act extends.

" 4. In this Act the word " contract " shall extend to all contracts within the meaning of the [1]Indian Contract Act, 1872: IX of 1872.

Provided that nothing in this Act shall apply to contracts where, a period having been specified for performance, such period exceeds one year."

ACT No. XIV OF 1920.[2]

[*20th March, 1920.*]

An Act to provide more effectual control over the administration of Charitable and Religious Trusts.

WHEREAS it is expedient to provide facilities for the obtaining of information regarding trusts created for public purposes of a charitable or religious nature, and to enable the trustees of such trusts to obtain the directions of a Court on certain matters, and to make special provision for the payment of the expenditure incurred in certain suits against the trustees of such trusts; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Charitable and Religious Trusts Act, 1920.

(*2*) It extends to the whole of British India:

Provided that the Governor General in Council may, by notification in the Gazette of India, direct that this Act, or any specified part thereof, shall [3]not extend to any specified Province or area, or to any specified trust or class of trusts.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context, " the Court " means the Court of the District Judge [or any other Court empowered in that behalf by the Local Government][4], and

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[1] General Acts, Vol. II.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 88; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 85, and for Proceedings in Council, *see ibid*, 1919, Pt. VI, p. 879, and *ibid*, 1920, Pt. VI, pp. 49 and 787.

[3] For notification directing that the Act shall not extend to the North-West Frontier Province, *see* Gazette of India, 1920, Pt. I, p. 569.

[4] These words were inserted by s. 2 of the Charitable and Religious Trusts (Amendment) Act, 1923 (XLI of 1923), *infra*.

includes the High Court in the exercise of its ordinary original civil jurisdiction.

Power to apply to the Court in respect of trusts of a charitable or religious nature.

3. Save as hereinafter provided in this Act, any person having an interest in any express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the Court within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate to obtain an order embodying all or any of the following directions, namely:—

(1) directing the trustee to furnish the petitioner through the Court with particulars as to the nature and objects of the trust, and of the value, condition, management and application of the subject-matter of the trust, and of the income belonging thereto, or as to any of these matters, and

(2) directing that the accounts of the trust shall be examined and audited:

Provided that no person shall apply for any such direction in respect of accounts relating to a period more than three years prior to the date of the petition.

Contents and verification of petition.

4. (*1*) The petition shall show in what way the petitioner claims to be interested in the trust, and shall specify, as far as may be, the particulars and the audit which he seeks to obtain.

(*2*) The petition shall be in writing and shall be signed and verified in the manner prescribed by the [1]Code of Civil Procedure, 1908, for signing and verifying plaints.

V of 1908.

Procedure on petition.

5. (*1*) If the Court on receipt of a petition under section 3, after taking such evidence and making such inquiry, if any, as it may consider necessary, is of opinion that the trust to which the petition relates is a trust to which this Act applies, and that the petitioner has an interest therein, it shall fix a date for the hearing of the petition, and shall cause a copy thereof, together with notice of the date so fixed, to be served on the trustee and upon any other person to whom in its opinion notice of the petition should be given.

(*2*) On the date fixed for the hearing of the petition, or on any subsequent date to which the hearing may be adjourned, the Court shall proceed to hear the petitioner and the trustee, if he appears, and any other person who has appeared in consequence of the notice, or who it considers ought to be heard, and shall make such further inquiries, if any, as it thinks fit. The trustee may and, if so required by the Court, shall at the time of the first hearing or within such time as the Court may permit present a written statement of his case. If he does present a written

[1] General Acts, Vol. VI.

statement, the statement shall be signed and verified in the manner prescribed by the [1]Code of Civil Procedure, 1908, for signing and verifying pleadings. V of 1908.

(*3*) If any person appears at the hearing of the petition and either denies the existence of the trust or denies that it is a trust to which this Act applies, and undertakes to institute within three months a suit for a declaration to that effect and for any other appropriate relief, the Court shall order a stay of the proceedings and, if such suit is so instituted, shall continue the stay until the suit is finally decided.

(*4*) If no such undertaking is given, or if after the expiry of the three months no such suit has been instituted, the Court shall itself decide the question.

(*5*) On completion of the inquiry provided for in sub-section (*2*), the Court shall either dismiss the petition or pass thereon such other order as it thinks fit:

Provided that, where a suit has been instituted in accordance with the provisions of sub-section (*3*), no order shall be passed by the Court which conflicts with the final decision therein.

(*6*) Save as provided in this section, the Court shall not try or determine any question of title between the petitioner and any person claiming title adversely to the trust.

Failure of trustee to comply with order under section 5.

6. If a trustee without reasonable excuse fails to comply with an order made under sub-section (*5*) of section 5, such trustee shall, without prejudice to any other penalty or liability which he may incur under any law for the time being in force, be deemed to have committed a breach of trust affording ground for a suit under the provisions of section 92 of the [1]Code of Civil Procedure, 1908; and any such suit may, so far as it is based on such failure, be instituted without the previous consent of the Advocate General. V of 1908.

Powers of trustee to apply for directions.

7. (*1*) Save as hereinafter provided in this Act, any trustee of an express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the Court, within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate, for the opinion, advice or direction of the Court on any question affecting the management or administration of the trust property, and the Court shall give its opinion, advice or direction, as the case may be, thereon:

Provided that the Court shall not be bound to give such opinion, advice or direction on any question which it considers to be a question not proper for summary disposal.

[1] General Acts, Vol. VI.

(*2*) The Court on a petition under sub-section (*1*), may either give its opinion, advice or direction thereon forthwith, or fix a date for the hearing of the petition, and may direct a copy thereof, together with notice of the date so fixed, to be served on such of the persons interested in the trust, or to be published for information in such manner, as it thinks fit.

(*3*) On any date fixed under sub-section (*2*) or on any subsequent date to which the hearing may be adjourned, the Court, before giving any opinion, advice or direction, shall afford a reasonable opportunity of being heard to all persons appearing in connection with the petition.

(*4*) A trustee stating in good faith the facts of any matter relating to the trust in a petition under sub-section (*1*), and acting upon the opinion, advice or direction of the Court given thereon, shall be deemed, as far as his own responsibility is concerned, to have discharged his duty as such trustee in the matter in respect of which the petition was made.

Costs of petition under this Act.

8. The costs, charges and expenses of and incidental to any petition, and all proceedings in connection therewith, under the foregoing provisions of this Act shall be in the discretion of the Court, which may direct the whole or any part of any such costs, charges and expenses to be met from the property or income of the trust in respect of which the petition is made, or to be borne and paid in such manner and by such persons as it thinks fit:

Provided that no such order shall be made against any person (other than the petitioner) who has not received notice of the petition and had a reasonable opportunity of being heard thereon.

Savings.

9. No petition under the foregoing provisions of this Act in relation to any trust shall be entertained in any of the following circumstances, namely:—

(*a*) if a suit instituted in accordance with the provisions of section 92 of the [1]Code of Civil Procedure, 1908, is pending in respect of the trust in question;

V of 1908.

(*b*) if the trust property is vested in the Treasurer of Charitable Endowments, the Administrator-General, the Official Trustee, or any Society registered under the [2]Societies Registration Act, 1860; or

XXI of 1860.

(*c*) if a scheme for the administration of the trust property has been settled or approved by any Court of competent jurisdiction, or by any other authority acting under the provisions of any enactment.

Power of Courts as to

10. (*1*) In any suit instituted under section 14 of the [2]Religious Endowments Act, 1863, or under section 92 of the [1]Code of Civil

XX of 1863.

[1] General Acts, Vol. VI.
[2] General Acts, Vol. I.

costs in certain suits against trustees of charitable and religious trusts.

Procedure, 1908, the Court trying such suit may, if, on application of the plaintiff and after hearing the defendant and making such inquiry as it thinks fit, it is satisfied that such an order is necessary in the public interest, direct the defendant either to furnish security for any expenditure incurred or likely to be incurred by the plaintiff in instituting and maintaining such suit, or to deposit from any money in his hands as trustee of the trust to which the suit relates such sum as such Court considers sufficient to meet such expenditure in whole or in part. V of 1908.

(*2*) When any money has been deposited in accordance with an order made under sub-section (*1*), the Court may make over to the plaintiff the whole or any part of such sum for the conduct of the suit. Before making over any sum to the plaintiff, the Court shall take security from the plaintiff for the refund of the same in the event of such refund being subsequently ordered by the Court.

Provisions of the Code of Civil Procedure to apply.

11. (*1*) The provisions of the [1]Code of Civil Procedure, 1908, relating to— V of 1908.

(*a*) the proof of facts by affidavit,

(*b*) the enforcing of the attendance of any person and his examination on oath,

(*c*) the enforcing of the production of documents, and

(*d*) the issuing of commissions,

shall apply to all proceedings under this Act, and the provisions relating to the service of summonses shall apply to the service of notices thereunder.

(*2*) The provisions of the said Code relating to the execution of decrees shall, so far as they are applicable, apply to the execution of orders under this Act.

Barring of appeals.

12. No appeal shall lie from any order passed or against any opinion, advice or direction given under this Act.

ACT No. XV OF 1920.[2]

[*20th March, 1920.*]

An Act to constitute an Indian Red Cross Society.

WHEREAS it is expedient to provide for the future administration of the various monies and gifts received from the public for the purpose of

[1] General Acts, Vol. VI.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 83; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 511 and 830.

medical and other aid to the sick and wounded, and other purposes of a like nature during the late war, and more especially for the administration of the monies and property held by a Committee known as the Joint War Committee, Indian Branch, of the Order of St. John of Jerusalem in England and the British Red Cross Society;

And whereas it is expedient to constitute an Indian Red Cross Society with a view to the continuation in peace time, on a wider basis and with a wider purpose, of the work carried on by the said Committee during the war, and to provide for the affiliation therewith of other societies and bodies having similar objects;

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Red Cross Society Act, 1920.

(*2*) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the District of Angul.

Constitution of Indian Red Cross Society.

2. There shall be constituted by this Act a Society to be known as the Indian Red Cross Society (hereinafter called the Society). The first members of the Society shall be nominated by persons who immediately before the commencement of this Act were members of the Joint War Committee, Indian Branch, of the Order of St. John of Jerusalem in England and the British Red Cross Society (hereinafter called the Committee) at a meeting to be summoned and held for that purpose in accordance with the usual practice of the Committee within three months from the commencement of this Act. The number of members to be so nominated shall not be less than twenty-five or more than fifty.

Appointment of Managing Body.

3. The Committee shall also at the same meeting appoint from among the members nominated under section 2 the Managing Body of the Society (hereinafter called the Managing Body), the members of which shall hold office as such until a new Managing Body is appointed as hereinafter provided. The number of members of the Managing Body shall not be less than ten or more than thirty.

Incorporation.

4. The first members of the Society and all persons who may hereafter become members thereof so long as they continue so to be, are hereby constituted a body corporate under the name of the Indian Red Cross Society, and the said body shall have perpetual succession and a common seal with power to hold and acquire property, moveable and immoveable, and shall sue and be sued by the said name.

Power to make rules.

5. The Managing Body shall, within six months from the commencement of this Act and subject to the condition of previous publication, make rules[1] for the management, control and procedure of the Society. The rules may provide among other matters for the following, namely:—

(*a*) the conditions of membership of the Society;

[1] For notification publishing such rules, *see* the List of General Statutory Rules and Orders.

(*b*) the appointment and term of office of members of the Managing Body;

(*c*) the choice of representatives on international and other Committees;

(*d*) representation on the Managing Body of Provincial and State Branch Committees and affiliated societies and bodies;

(*e*) the constitution of Finance, Medical and other Committees and the delegation of powers to them; and

(*f*) the regulation of the procedure generally of the Society and Managing Body.

Dissolution and transfer of property of Joint War Committee.

6. Upon the nomination of the first members of the Society and the appointment of the Managing Body—

(*a*) the Committee shall be dissolved;

(*b*) all property, moveable or immoveable, of or belonging to the Committee shall vest in the Society and shall be applied by the Managing Body to the objects and purposes hereinafter set out; and

(*c*) all the debts and liabilities of the Committee shall be transferred to the Society, and shall thereafter be discharged and satisfied by it out of the aforesaid property, and each and every member of the Committee shall be wholly discharged therefrom.

Purposes to which funds of Society may be applied.

7. Notwithstanding anything contained in any appeal for subscriptions or gifts to or for the purposes of the Committee, the Managing Body may in its discretion apply—

(*a*) either the corpus or the income or any part of such corpus or income of any property vested in it under clause (*b*) of section 6 for the relief of sickness, suffering or distress caused by the operation of war in India or in any other country in which Expeditionary Forces from India may, from time to time, be employed and for purposes cognate to that object and in maintaining Red Cross Depôts for military purposes;

(*b*) in accordance with the provisions of section 8 the income only of any such property but not the corpus or any part thereof for the relief of sickness or suffering in India, whether due to the operation of war or not, or in pursuance of any of the objects set forth in the First Schedule.

Constitution of Branch Committees.

8. If Branch Committees consisting of members of the Society are constituted in any of the Provinces, States and other parts of India

specified in the Second Schedule, then, subject to the requirements of the Managing Body for the purposes of clause (*a*) of section 7 and any provision for expenses of management, the income of the property which has been vested in the Society under clause (*b*) of section 6 shall be distributed annually among such Branch Committees in the proportion shown in the said Schedule, to be expended by them and at their discretion upon all or any of the objects referred to in clause (*b*) of section 7.

Affiliation of other Societies.

9. The Managing Body may also affiliate to the Society any other society or body having all or any of the objects and purposes referred to in section 7, and may provide for the allocation and distribution of funds, through such society or body, to or for any such objects or purposes.

Decision of Managing Body as to purposes final.

10. The Managing Body shall have authority to determine in all cases what matters properly fall within the scope of clause (*b*) of section 7, and its decision in all such matters shall be binding on all Branch Committees and affiliated societies or bodies.

Receipt and use of gifts.

11. The Managing Body may also receive and hold gifts of whatsoever description either for the general purposes of the Society or for any particular purpose for which the corpus or income of the property vested in it under clause (*b*) of section 6 may be applied under the provisions of section 7, and on receipt of such gifts may, subject to the provisions of rules made under section 5, apply the same to such purposes, either directly or through Branch Committees, or societies or bodies affiliated under section 9.

Powers of Branch Committees.

12. Subject to the provisions of rules made under section 5, each Branch Committee shall have all power to regulate its own procedure and constitution, to receive gifts and expend all monies received by it for its purposes, either directly or through other societies or bodies.

FIRST SCHEDULE.

(*See section 7.*)

Objects to which the funds of the Society may be applied.

(1) The care of the sick and wounded men of His Majesty's Forces, whether still on the active list or demobilised.

(2) The care of those suffering from tuberculosis, having regard in the first place to soldiers and sailors, whether they have contracted the disease on active service or not.

(3) Child welfare.

(4) Work parties to provide the necessary garments, etc., for hospitals and health institutions in need of them.

(5) Assistance required in all branches of nursing, health and welfare work, ancillary to any organisations which have or may come into being in India and which are recognised by the Society.

(6) Home Service Ambulance Work.

(7) Provision of comforts and assistance to members of His Majesty's Forces, whether on the active list or demobilised.

(8) Such other cognate objects as may, from time to time, be approved by the Society.

(9) The expenses of management of the Society and its branches and affiliated societies and bodies.

(10) The representation of the Society on or at International or other Committees formed for furthering objects similar to those of the Society.

SECOND SCHEDULE.

(*See section 8.*)

Statement showing contributions made by Provinces and States in India to the Central "Our Day" Fund and the approximate percentage of their claim on the interest on the capital fund of the Joint War Committee, Indian Branch.

Names of Provinces, States, etc.	Amount of contribution.	Approximate percentage of claim on the interest of Capital Fund.
	Lakhs.	
United Provinces	15	18
Bombay	10	12
Bengal	10	12
Punjab	11	13
Burma	6	7
Central Provinces	4	4·5
Bihar and Orissa	5¼	6
Rajputana	4	4·5
Madras	6	7
Central India	3⅓	3·5
North-West Frontier	2¼	2·5
Hyderabad	3	3·5
Assam	1¼	1·5
Baluchistan	1¼	1·5
Mysore	1¼	1·5
Kashmir	1	1
Baroda	½	·5
Delhi	⅔	·5

ACT No. XX OF 1920.[1]

[*23rd March, 1920.*]

An Act to consolidate and amend the law relating to the suspension of sentences passed by Courts-martial under the Indian Army Act, 1911.

WHEREAS it is expedient to consolidate and amend the law relating to the suspension of sentences of imprisonment or transportation passed by Courts-martial on persons subject to the [2]Indian Army Act, 1911; It is hereby enacted as follows:—

VIII of 1911.

Short title and construction.

1. This Act may be called the Indian Army (Suspension of Sentences) Act, 1920, and shall be construed as one with the principal Act.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " committed " means committed to prison or to confinement in military custody;

(*b*) " competent military authority " means a superior military authority, or any general or other officer not below the rank of field officer duly authorised by a superior military authority;

(*c*) " imprisonment " includes confinement in military custody;

VIII of 1911. (*d*) " principal Act " means the [2]Indian Army Act, 1911;

(*e*) " sentence " means a sentence of transportation or imprisonment, whether originally passed on a person subject to the principal Act, or passed by way of reduction or commutation; and " sentenced " has the corresponding meaning; and

(*f*) " superior military authority " means the Commander-in-Chief in India or any officer empowered under the principal Act to convene general Courts-martial or summary general Courts-martial.

Suspension of sentences.

3. (*1*) Where a person subject to the principal Act is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the President of the Court-martial when passing sentence may, notwithstanding anything in the principal Act, direct that such person be not committed until the orders of a superior military authority have been obtained.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 124; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 843 and 955.

[2] General Acts, Vol. VII.

(*2*) A superior military authority may, in the case of any such offender so sentenced,—

(*a*) direct that, until his orders have been obtained, such offender shall not be committed; and

(*b*) suspend the sentence whether or not the offender has already been committed.

(*3*) Where, in accordance with any order passed under sub-section (*2*), a sentence is suspended, the offender shall, whether he has been committed or not, forthwith be released.

Calculation of periods of sentence under suspension.

4. Any period during which a sentence is under suspension shall be reckoned as part of the term of such sentence.

Power to set aside suspension or order remission.

5. A superior military authority may, at any time whilst a sentence is suspended under this Act, order—

(*a*) that the offender be committed to undergo the unexpired portion of the sentence, or

(*b*) that the sentence be remitted.

Periodical review of suspended sentences.

6. Where a sentence has been suspended under this Act, the case may at any time, and shall at intervals of not more than four months, be reconsidered by a competent military authority, and if, on any such reconsideration, it appears to such authority that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall, if he is not also a superior military authority, refer the case to a superior military authority.

Procedure on further sentence of offender whose sentence is suspended.

7. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(*a*) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(*b*) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed on the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(*c*) if the further sentence is for a period of three months or less and is not suspended under this Act, the offender shall be committed on that sentence only, and the previous sentence shall (subject to any order which may be passed under section 5 or section 6) continue to be suspended.

Saving of section 112, Act VIII of 1911.

8. The powers conferred by this Act shall be in addition to, and not in derogation of, any powers as to the mitigation, remission or commutation of sentences conferred by the principal Act, and a superior

military authority shall, as regards persons subject to that Act, be an authority having power to mitigate, remit or commute sentences under section 112 of that Act.

Provision as to dismissal.

9. Where in addition to any other sentence the punishment of dismissal has been awarded by a Court-martial, and such other sentence is suspended under this Act, then, notwithstanding anything contained in the principal Act or in any rules made thereunder, such dismissal shall not take effect until so ordered by a superior military authority:

Provided that, if a sentence is remitted under this Act, the punishment of dismissal shall also be remitted.

IV of 1917. XVIII of 1918.

Repeal of Act IV of 1917.

10. The Indian Army (Suspension of Sentences) Act, 1917, and the Indian Army (Suspension of Sentences) Amendment Act, 1918, are hereby repealed, and all sentences which are suspended thereunder at the commencement of this Act shall be deemed to have been suspended under this Act, and the provisions of this Act shall apply accordingly:

Provided that all such sentences shall, on the expiry of six months from the commencement of this Act, if still under suspension, be deemed to be remitted.

ACT No. XXII OF 1920.[1]

[*31st August, 1920.*]

An Act further to amend the Lepers Act, 1898.

III of 1898.

WHEREAS it is expedient further to amend the [2]Lepers Act, 1898; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Lepers (Amendment) Act, 1920.

III of 1898.

Amendment of section 1, Act III of 1898.

2. In sub-section (*4*) of section 1 of the [2]Lepers Act, 1898 (hereinafter referred to as the said Act), the words " and may in like manner amend or cancel any such notification " shall be omitted.

Amendment of section 2, Act III of 1898.

3. In clause (*1*) of section 2 of the said Act, the words " in whom the process of ulceration has commenced " shall be omitted.

Substitution of new section for section 3, Act III of 1898.

4. For section 3 of the said Act the following section shall be substituted, namely:—

Appointment of leper asylums by

" 3. The Local Government may, by notification in the official Gazette, appoint any place to be a leper asylum if it is satisfied that

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 93; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 730 and 1081.

[2] General Acts, Vol. V.

Local Government.

adequate arrangements have been made or will be made for the accommodation and medical treatment of lepers therein, and may, by a like notification, specify the local areas from which lepers may be sent to such asylum."

Amendment of section 6, Act III of 1898.

5. In section 6 of the said Act—

(*a*) in sub-section (*1*), after the words "any police officer" the words "or any other person specially empowered by the Local Government by order in writing in this behalf" shall be inserted; and

(*b*) in sub-section (*2*), after the words "such police officer" the words "or other person" shall be inserted.

Amendment of section 12, Act III of 1898.

6. In section 12 of the said Act, for the words "by any police officer without a warrant,"[1] the words "without a warrant by any police officer or by any other person especially empowered by the Local Government by order in writing in this behalf" shall be substituted.

ACT No. XXIII OF 1920.[1]

[*31st August, 1920.*]

An Act to provide for the better discipline of Police officers enrolled in Military Police or Rifle Battalions.

WHEREAS it is expedient to provide for the better discipline of Police officers enrolled under local Acts in Military Police or Rifle Battalions; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Rifles Act, 1920.

Police officers subject to discipline and penalties prescribed in local Acts wherever serving.

2. All Police officers enrolled under the provisions of any local Military Police or Rifles Act shall be subject to the discipline and penalties prescribed by such Act, wherever serving in India.

ACT No. XXIV OF 1920.[2]

[*31st August, 1920.*]

An Act further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the [3]Code of Civil Procedure, 1908; It is hereby enacted as follows:— V of 1908.

Short title.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1920.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 158; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1001 and 1082.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 159; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1002 and 1082.

[3] General Acts, Vol. VI.

2. For sub-rule (*1*) of rule 5 of Order IX in the First Schedule to the [1]Code of Civil Procedure, 1908, the following shall be substituted, namely:— Amendment of rule 5 of Order IX in Sch. I, Act V of 1908.

V of 1908.

"(*1*) Where, after a summons has been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails, for a period of three months from the date of the return made to the Court by the officer ordinarily certifying to the Court returns made by the serving officers, to apply for the issue of a fresh summons the Court shall make an order that the suit be dismissed as against such defendant, unless the plaintiff has within the said period satisfied the Court that—

(*a*) he has failed after using his best endeavours to discover the residence of the defendant who has not been served, or

(*b*) such defendant is avoiding service of process, or

(*c*) there is any other sufficient cause for extending the time,

in which case the Court may extend the time for making such application for such period as it thinks fit."

ACT No. XXV OF 1920.[2]

[*31st August, 1920.*]

An Act further to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient further to amend the [3]Negotiable Instruments Act, 1881; It is hereby enacted as follows:—

XXVI of 1881.

1. This Act may be called the Negotiable Instruments (Amendment) Act, 1920. Short title.

2. After section 75 of the [3]Negotiable Instruments Act, 1881, the following section shall be inserted, namely:— Insertion of new section 75A in Act XXVI of 1881.

XXVI of 1881.

"75A. Delay in presentment for payment is excused if the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made within a reasonable time." Excuse for delay in presentment for payment.

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[1] General Acts, Vol. VI.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 160; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1002 and 1082.
[3] General Acts, Vol. III.

ACT No. XXVI OF 1920.[1]

[*2nd September, 1920.*]

An Act further to amend the Indian Limitation Act, 1908, and the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the [2]Indian Limitation Act, 1908, and the [2]Code of Civil Procedure, 1908; It is hereby enacted as follows:— IX of 1908. V of 1908.

Short title and commencement.

1. (*1*) This Act may be called the Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920.

(2) It shall come into force on the first day of January, 1921.

Amendment of Articles 176 to 179 of First Schedule to Act IX, 1908.

[3][**2.** In the Third Division of the First Schedule to the [2]Indian Limitation Act, 1908, in Articles 176, 177 and 179, for each of the entries in the second column the entry "ninety days" shall be substituted, and in Article 178, for the entry in the second column the entry "six months" shall be substituted.] IX of 1908.

Amendment of rule 7 (*1*) of Order XLV of First Schedule to Act V, 1908.

3. In sub-rule (*1*) of rule 7 of Order XLV of the First Schedule to the [2]Code of Civil Procedure, 1908 (hereinafter referred to as the said Code), the following amendments shall be made, namely:— V of 1908.

(*i*) for the words "six months" the following words shall be substituted, namely:—

"ninety days or such further period, not exceeding sixty days, as the Court may upon cause shown allow";

(*ii*) after the word "security" the words "in cash or in Government securities" shall be inserted;

(*iii*) at the end of the sub-rule the following proviso shall be added, namely:—

"Provided that the Court at the time of granting the certificate may, after hearing any opposite party who appears, order on the ground of special hardship that some other form of security may be furnished:

Provided, further, that no adjournment shall be granted to an opposite party to contest the nature of such security."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 156; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1000 and 1105.

[2] General Acts, Vol. VI.

[3] This section was substituted for original section 2 by s. 2 and Sch. I of the Repealing and Amending Act, 1923 (XI of 1923), *infra*.

4. After rule 9 of Order XLV of the First Schedule to the said Code, the following rule shall be inserted, namely:— Insertion of new rule 9A in Order XLV of First Schedule to Act V, 1908.

"9A. Nothing in these rules requiring any notice to be served on or given to an opposite party or respondent shall be deemed to require any notice to be served on or given to the legal representative of any deceased opposite party or deceased respondent in a case, where such opposite party or respondent did not appear either at the hearing in the Court whose decree is complained of or at any proceedings subsequent to the decree of that Court: Power to dispense with notices in case of deceased parties.

Provided that notices under sub-rule (*2*) of rule 3 and under rule 8 shall be given by affixing the same in some conspicuous place in the Court house of the Judge of the District in which the suit was originally brought, and by publication in such newspapers as the Court may direct."

5. To rule 15 of Order XLV of the First Schedule to the said Code, the following sub-rule shall be added, namely:— Addition to rule 15 of Order XLV of Act V, 1908.

" (*4*) Unless His Majesty in Council is pleased otherwise to direct, no order of His Majesty in Council shall be inoperative on the ground that no notice has been served on or given to the legal representative of any deceased opposite party or deceased respondent in a case, where such opposite party or respondent did not appear either at the hearing in the Court whose decree was complained of or at any proceedings subsequent to the decree of that Court, but such order shall have the same force and effect as if it had been made before the death took place."

ACT No. XXVII OF 1920.[1]

[*2nd September, 1920.*]

An Act further to amend the Indian Motor Vehicles Act, 1914.

WHEREAS it is expedient further to amend the [2]Indian Motor Vehicles Act, 1914; It is hereby enacted as follows:— VIII of 1914.

1. This Act may be called the Indian Motor Vehicles (Amendment) Act, 1920. Short title.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 157; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1000 and 1106.

[2] General Acts, Vol. VIII.

Amendment of s. 11, Act VIII of 1914.

2. In sub-section (*2*) of section 11 of the [1]Indian Motor Vehicles Act, 1914 (hereinafter referred to as the said Act), after clause (*d*), the following clause shall be inserted, namely:— VIII of 1914.

"(*dd*) prescribing the authority by which, and the conditions and limitations subject to which, licenses may be suspended or cancelled;".

Amendment of s. 18, Act VIII of 1914.

3. After sub-section (*1*) of section 18 of the said Act the following sub-section shall be inserted, namely:—

"(*1A*) The prescribed authority may, subject to such conditions and limitations as may be prescribed, cancel or suspend any license granted under this Act."

ACT No. XXIX OF 1920.[2]

[*2nd September, 1920.*]

An Act further to amend the Indian Patents and Designs Act, 1911.

WHEREAS it is expedient further to amend the [3]Indian Patents and Designs Act, 1911; It is hereby enacted as follows:— II of 1911.

Short title.

1. This Act may be called the Indian Patents and Designs (Amendment) Act, 1920.

Insertion of new section 78A in Act II of 1911.

2. After section 78 of the [3]Indian Patents and Designs Act, 1911, the following heading and section shall be inserted, namely:— II of 1911.

"*Reciprocal arrangements with the United Kingdom and other parts of His Majesty's dominions.*

Reciprocal arrangements with the United Kingdom and other parts of His Majesty's dominions.

78A. (*1*) If His Majesty is pleased by Order in Council to apply such of the provisions of section 91 of the Patents and Designs Act, 1907, as relate to inventions or designs, to British India, then any person who has applied for protection for any invention or design in the United Kingdom, shall be entitled to a patent for his invention or to registration 7 Edw. VII, c. 29.

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[1] General Acts, Vol. VIII.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 166; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1040 and 1106.
[3] General Acts, Vol. VII.

of his design under this Act, in priority to other applicants; and the patent or registration shall have the same date as the date of the application in the United Kingdom:

Provided that—

(*a*) the application is made in the case of a patent within twelve months, and, in the case of a design within four months from the application for protection in the United Kingdom; and

(*b*) nothing in this section shall entitle the patentee or the proprietor of the design to recover damages for infringements happening prior to the actual date on which, in the case of a patent, his application is accepted, or, in the case of a design, the design is registered, in British India.

(*2*) The patent granted for an invention or the registration of a design shall not be invalidated—

(*a*) in the case of a patent, by reason only of the publication of a description of, or use of, the invention, or

(*b*) in the case of a design, by reason only of the exhibition or use of, or the publication of a description or representation of, the design,

in British India during the period specified in this section as that within which the application may be made.

(*3*) The application for the grant of a patent or the registration of a design under this section must be made in the same manner as an ordinary application under this Act:

Provided that, in the case of a patent, if the application is not accepted within twelve months from the date of the application for protection in the United Kingdom, the specification and the drawings (if any) supplied therewith shall be open to public inspection at the expiration of that period.

(*4*) Where it is made to appear to the Governor General in Council that the legislature of any other part of His Majesty's dominions has made satisfactory provision for the protection of inventions or designs, patented or registered in British India, the Governor General in Council may, by notification in the Gazette of India, direct that the provisions of this section, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of inventions or designs patented or registered in that part of His Majesty's dominions."

ACT No. XXXI OF 1920.[1]

[*2nd September, 1920.*]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule;

And whereas it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal, should be expressly and specifically repealed;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Repealing and Amending Act, 1920.

Amendment of certain enactments.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Savings.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 170; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1041 and 1107.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

Year.	No.	Short title.	Amendments.
1882	II	The Indian Trusts Act, 1882.	In clause (*a*) of section 20, after the word "securities" the words "of any Local Government or" shall be inserted.
1897	X	The General Clauses Act, 1897.	After section 30 the following section shall be inserted, namely:— "31. In any enactment made by any authority in British India before the date on which section 3 of the Government of India Act, 1919, comes into operation, and in any rule, order, notification, scheme, bye-law or other document made under or with reference to any such enactment, any reference by whatever form of words to an authority authorized by law, at the time the enactment was made, to administer executive government in any part of British India shall, where a corresponding new authority has been constituted by the Government of India Act, 1919, be construed for all purposes, after the above-mentioned date, as a reference to such new authority." Construction of references to Local Government of a Province.
1914	X	The Repealing and Amending Act, 1914.	In the First Schedule, for the short title "The Indian Air-ships Act, 1911," in the third column against Act XVII of 1911 the following shall be substituted, namely:—"The Indian Aircraft Act, 1911."
1914	XVII	The Second Repealing and Amending Act, 1914.	In the Second Schedule, for the short title "The Indian Air-ships Act, 1911," in the third column against Act XVII of 1911 the following shall be substituted, namely:—"The Indian Aircraft Act, 1911."
1920	XVIII	The Dacca University Act, 1920.	In section 45, for the words from "Every such arbitration" to the end of the section the following shall be substituted, namely:—"Every such request shall be deemed to be a submission to arbitration upon the terms of this section, within the meaning of the Indian Arbitration Act, 1899, and all the provisions of that Act, with the exception of section 2 thereof, shall apply accordingly." In sub-section (*l*) of section 46, for the words "a pension or provident fund" the following shall be substituted, namely:— "such pension and provident funds as it may deem fit".
[1] *	*	* *	* * *

[1] The entry relating to the Super-tax Act, 1920 (XIX of 1920), was repealed by s. 68 and Schedule of the Indian Income-tax Act, 1922 (XI of 1922), *infra*.

THE SECOND SCHEDULE.

REPEALS.

(*See section 3.*)

Year.	No.	Short title.	Extent of repeal.
1891	XII	The Amending Act, 1891	So much of Part I of the Second Schedule as relates to section 24 of Act III of 1864. So much of Part I of the Second Schedule as relates to section 26 of Act IX of 1874.
1900	VI	The Lower Burma Courts Act, 1900.	Section 16 and so much of Part I of the First Schedule as relates to sections 19 and 21 of Act V of 1880.
1911	II	The Indian Patents and Designs Act, 1911.	Section 81.
1914	IV	The Decentralization Act, 1914.	So much of the Schedule as relates to Act III of 1879, Act IV of 1904, and Act XIII of 1908.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to Act III of 1879.

ACT No. XXXII OF 1920.[1]

[*2nd September, 1920.*]

An Act to amend the Post Office Cash Certificates Act, 1917.

WHEREAS it is expedient to amend the [2]Post Office Cash Certificates Act, 1917; It is hereby enacted as follows:— XVIII of 1917.

Short title.

1. This Act may be called the Post Office Cash Certificates (Amendment) Act, 1920.

Amendment of section 2 of Act XVIII of 1917.

2. In sub-section (*1*) of section 2 of the [2]Post Office Cash Certificates Act, 1917, for the words " the Post Master General for the area in which XVIII of 1917.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 172; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1042 and 1107.
[2] General Acts, Vol. VIII.

the post office of issue is situate " the words " an officer of the Post Office authorised by general or special order of the Governor General in Council in that behalf " shall be substituted.

XVIII of 1917.

3. In sub-section (*1*) of section 3 of the [1]Post Office Cash Certificates Act, 1917, after the words " in such a Bank " the following words shall be inserted, namely:— Amendment of section 3 of Act XVIII of 1917.

" and as if for the words ' three thousand ' in sections 4 and 8 of the said Act the words ' five thousand ' were substituted."

ACT No. XXXIII OF 1920.[2]

[*9th September, 1920.*]

An Act to authorise the taking of measurements and photographs of convicts and others.

WHEREAS it is expedient to authorise the taking of measurements and photographs of convicts and others; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Identification of Prisoners Act, 1920; and Short title and extent.

(*2*) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the district of Angul.

[3]**2.** In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) " measurements " include finger impressions and foot-print impressions;

(*b*) " police officer " means an officer in charge of a police-station, a police officer making an investigation under Chapter XIV of the [4]Code of Criminal Procedure, 1898, or any other police officer not below the rank of sub-inspector; and

V of 1898.

(*c*) " prescribed " means prescribed by rules made under this Act.

3. Every person who has been— Taking of measurements, etc., of convicted persons.

(*a*) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction; or

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[1] General Acts, Vol. VIII.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 162; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1037 and 1143.

[3] Sections 2, 5 and 7 of this Act have been amended in their application to Bombay by the Identification of Prisoners (Bombay Amendment) Act, 1922 (Bom. Act XI of 1922), *vide* Bombay Code, Vol. V.

[4] General Acts, Vol. V.

(*b*) ordered to give security for his good behaviour under section 118 of the [1]Code of Criminal Procedure, 1898, V of 1898.

shall, if so required, allow his measurements and photograph to be taken by a police officer in the prescribed manner.

Taking of measurements, etc., of non-convicted persons.

4. Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a police officer, allow his measurements to be taken in the prescribed manner.

Power of Magistrate to order a person to be measured or photographed.

[2]**5.** If a Magistrate is satisfied that, for the purposes of any investigation or proceeding under the [1]Code of Criminal Procedure, 1898, it is V of 1898. expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to that effect, and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer:

Provided that no order shall be made directing any person to be photographed except by a Magistrate of the first class:

Provided, further, that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

Resistance to the taking of measurements, etc.

6. (*1*) If any person who under this Act is required to allow his measurements or photograph to be taken resists or refuses to allow the taking of the same, it shall be lawful to use all means necessary to secure the taking thereof.

(*2*) Resistance to or refusal to allow the taking of measurements or photographs under this Act shall be deemed to be an offence under section 186 of the [3]Indian Penal Code. XLV of 1860.

Destruction of photographs and records of measurements, etc., on acquittal.

[2]**7.** Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any Court, all measurements and all photographs (both negatives and copies) so taken shall, unless the Court or (in a case where such person is released without trial) the District Magistrate or Sub-Divisional Officer for reasons to be recorded in writing otherwise directs, be destroyed or made over to him.

Power to make rules.

8. (*1*) The Local Government may make rules for the purpose of carrying into effect the provisions of this Act.

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[1] General Acts, Vol. V.
[2] *See* footnote 3 on p. 97, *ante*.
[3] General Acts, Vol. I.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for—

(a) restrictions on the taking of photographs of persons under section 5;

(b) the places at which measurements and photographs may be taken;

(c) the nature of the measurements that may be taken;

(d) the method in which any class or classes of measurements shall be taken;

(e) the dress to be worn by a person when being photographed under section 3; and

(f) the preservation, safe custody, destruction and disposal of records of measurements and photographs.

9. No suit or other proceeding shall lie against any person for anything done, or intended to be done, in good faith under this Act or under any rule made thereunder. **Bar of suits.**

ACT No. XXXIV OF 1920.[1]

[*9th September, 1920.*]

An Act to take power to require passports of persons entering British India.

WHEREAS it is expedient to take power to require passports of persons entering British India; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Passport Act, 1920. **Short title and extent.**

(2) It shall extend to the whole of British India, including British Baluchistan, the Sonthal Parganas and the district of Angul.

2. In this Act, unless there is anything repugnant in the subject or context, **Definitions**

"entry" means entry by water, land or air;

"passport" means a passport for the time being in force issued or renewed by the prescribed authority and satisfying the conditions prescribed relating to the class of passports to which it belongs; and

"prescribed" means prescribed by rules made under this Act.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 54; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 252, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 397, 1003 and 1144.

Power to make rules.

3. (*1*) The Governor General in Council may make rules[1] requiring that persons entering British India shall be in possession of passports, and for all matters ancillary or incidental to that purpose.

(*2*) Without prejudice to the generality of the foregoing power such rules may—

(*a*) prohibit the entry into British India or any part thereof of any person who has not in his possession a passport issued to him;

(*b*) prescribe the authorities by whom passports must have been issued or renewed, and the conditions with which they must comply, for the purposes of this Act; and

(*c*) provide for the exemption, either absolutely or on any condition, of any person or class of persons from any provision of such rules.

(*3*) Rules made under this section may provide that any contravention thereof or of any order issued under the authority of any such rule shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

(*4*) All rules made under this section shall be published in the Gazette of India, and shall thereupon have effect as if enacted in this Act.

Power of arrest.

4. (*1*) Any officer of police, not below the rank of a sub-inspector, and any officer of the Customs Department empowered by a general or special order of the Local Government in this behalf may arrest without warrant any person who has contravened or against whom a reasonable suspicion exists that he has contravened any rule or order made under section 3.

(*2*) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police-station and the provisions of section 61 of the [2]Code of Criminal Procedure, 1898, shall, so far as may be, apply in the case of any such arrest. V of 1898.

Power of removal.

5. The Local Government may, by general or special order, direct the removal of any person from British India who, in contravention of any rule made under section 3 prohibiting entry into British India without passport, has entered therein, and thereupon any officer of Government shall have all reasonable powers necessary to enforce such direction.

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[1] For notification publishing such rules, *see* List of General Statutory Rules and Orders.

[2] General Acts, Vol. V.

ACT No. XXXVI OF 1920.[1]

[*9th September, 1920.*]

An Act further to amend the Indian Coinage Act, 1906.

III of 1906. WHEREAS it is expedient further to amend the [2]Indian Coinage Act, 1906; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Coinage (Amendment) Act, 1920.

Amendment of section 11 of Act III of 1906. III of 1906. **2.** In section 11 of the [2]Indian Coinage Act, 1906, for the word "fifteen" the word "ten" shall be substituted.

Repeal of Ordinance III of 1920. III of 1920. **3.** The Gold Ordinance, 1920, is hereby repealed.

ACT No. XXXVII OF 1920.[3]

[*9th September, 1920.*]

An Act further to amend the Indian Army Act, 1911.

VIII of 1911. WHEREAS it is expedient further to amend the [4]Indian Army Act, 1911; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Army (Amendment) Act, 1920.

Amendment of section 20 of Act VIII of 1911. VIII of 1911. **2.** In sub-section (*2*) of section 20 of the [4]Indian Army Act, 1911 (hereinafter referred to as the said Act),—

(1) for the words "Imprisonment in military custody may be specified as such a minor punishment" the words "Imprisonment in military custody and, in the case of persons subject to this Act on active service, any prescribed field punishment may be specified as minor punishments" shall be substituted; and

(2) in clause (*a*), after the words "imprisonment" the words "or field punishment" shall be inserted.

Amendment of section 24 of Act VIII of 1911. **3.** In section 24 of the said Act—

(1) to sub-section (*1*) the words "He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial" shall be added; and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 228; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1084 and 1145.

[2] General Acts, Vol. VI.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 229; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1107 and 1145.

[4] General Acts, Vol. VII.

(3) for sub-sections (2) and (3) the following sub-section shall be substituted, namely:—

"(2) A provost-marshal may punish with any punishment mentioned in section 22, sub-section (1), clause (b), any follower who is subject to this Act under section 2, sub-section (1), clause (c), and is a menial servant and who on active service and in his view, or in the view of any of his assistants, commits any breach of good order and military discipline."

Amendment of section 41 of Act VIII of 1911.

4. In section 41 of the said Act—

(1) in clause (a) after the word "punishment," and

(2) in clause (b) after the word "punishment," where it first occurs,

the words " other than whipping " shall be inserted.

Substitution of new section for section 45 of Act VIII of 1911. Field punishment.

5. For section 45 of the said Act the following section shall be substituted, namely:—

" 45. Where any person, subject to this Act and under the rank of warrant officer, on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence any such punishment, other than flogging, as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb."

Amendment of sections 46 and 49 of Act VIII of 1911.

6. In sections 46 and 49 of the said Act, for the words " corporal punishment " the words " field punishment " shall be substituted.

Amendment of section 50 of Act VIII of 1911.

7. In section 50 of the said Act—

(1) to clause (a) the words " or of field punishment awarded by a court-martial or such officer " shall be added; and

(2) in clause (b) after the word " imprisonment " the word " or field punishment " shall be inserted.

Substitution of new section for section 67 of Act VIII of 1911. Limitation of trial.

8. For section 67 of the said Act the following section shall be substituted, namely:—

" 67. No trial by court-martial of any person subject to this Act for any offence (other than an offence of mutiny, desertion or fraudulent enrolment) shall be commenced after the expiration of three years from the date of such offence, and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enrolment shall be commenced if the person in question has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of His Majesty's regular forces.

Explanation.—For the purposes of this section, ' mutiny ' means any of the offences specified in clauses (a), (b) and (c) of section 27."

9. After clause (*b*) of sub-section (*2*) of section 113 of the said Act the following clause shall be inserted, namely:— Amendment of section 113 of Act VIII of 1911.

"(*bb*) the specification of the punishments which may be awarded as field punishments under sections 20 and 45."

10. Section 111 of the said Act is hereby repealed. Repeal of section 111 of Act VIII of 1911.

ACT No. XXXVIII OF 1920.[1]

[*14th September, 1920.*]

An Act to relax the control in certain respects of the Governor General in Council over Local Governments, and to transfer to such Governments certain powers now exercisable by the Governor General in Council.

WHEREAS powers of control are vested in the Governor General in Council in virtue of certain enactments and it is expedient to relax those powers, and to transfer to Local Governments powers under certain enactments now exercisable by the Governor General in Council; It is hereby enacted as follows:—

1. This Act may be called the Devolution Act, 1920. Short title.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof. Consequential repeals.

4. Any appointment, notification, order, scheme, rule, form or bye-law made or issued, before the commencement of this Act, by an authority for the making or issuing of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority, unless and until superseded by an appointment, notification, order, scheme, rule, form or bye-law made or issued by such new authority. Saving of orders, etc., issued by previous authorities.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 225; and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1062 and 1145.

THE FIRST SCHEDULE.

(See section 2.)

Part I.—Acts of the Governor General in Council.

Year.	No.	Short title or subject.	Amendments.
1851	VIII	The Indian Tolls Act, 1851	In section 2, the words "not exceeding the rates mentioned in the Schedule annexed to this Act" and the Schedule shall be omitted.
1857	XXIX	Collection of Bombay Land Customs.	The proviso to section 5 shall be omitted.
1859	XIII	The Workman's Breach of Contract Act, 1859.	In section 5, the words "by the Governor General of India in Council or" shall be omitted.
1860	IX	The Employers and Workmen (Disputes) Act, 1860.	In section 9, the words "of the Governor General of India in Council or" shall be omitted.
1861	V	The Police Act, 1861	In sections 2 and 3, after the word "subject" the words "in the case of officers of the Indian Police of and above the rank of Assistant Superintendent" shall be inserted.
1864	XV	The Indian Tolls Act, 1864	The words from "not exceeding" to "Schedule mentioned" in the Preamble, the whole of section 1 and the Schedule shall be omitted. In section 2, for the words from "specified in the Schedule" to the end of the section, the words "authorized to be levied under the said Act VIII of 1851" shall be substituted.
1865	X	The Indian Succession Act, 1865.	In section 332, for the words "Governor General of India in Council" wherever they occur, the words "Local Government," for the words "in British India" the words "in the territories administered by the Local Government," for the word "he" the words "the Local Government" and for the words "Gazette of India" the words "local official Gazette" shall be substituted.
„	XV	The Parsi Marriage and Divorce Act, 1865.	In section 8A, for the words "Governor General in Council" the words "Local Government, by which he was appointed," for the words "the Local Government, by which he was appointed" the words "such Local Government", and for the words "the Governor General" the words "such Local Government" shall be substituted.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1867	XXV	The Press and Registration of Books Act, 1867.	In section 21, for the words "Governor General of India in Council" the words "Local Government" and for the words "Gazette of India" the words "local Gazette" shall be substituted.
1868	V	Delegation of powers to the Commissioner in Sindh.	In section 2, the words "with the consent of the Governor General of India in Council" shall be omitted.
1869	I	The Oudh Estates Act, 1869	In section 9, for the words "Governor General of India in Council" the words "Local Government," for the words "the said Governor General in Council" the words "the Local Government", and for the words "Gazette of India" where they occur for the second time, the words "local official Gazette" shall be substituted.
1870	VII	The Court-fees Act, 1870	In section 20, the words "and sanctioned by the Governor General of India in Council" shall be omitted. In sections 22 and 23, the words "and the Governor General of India in Council" shall be omitted. In sections 26 and 35, for the words "Governor General of India in Council" the words "Local Government," and for the words "Gazette of India" the words "local official Gazette" shall be substituted. In section 35, for the words "British India" the words "the territories under its administration" shall be substituted.
"	VIII	The Female Infanticide Prevention Act, 1870.	In section 1, the words "with the previous sanction of the Governor General of India in Council" shall be omitted. In section 3, the words "confirmed by the Governor General of India in Council and" and the words "in the Gazette of India and also" shall be omitted. In section 7, for the words from "and the Governor of Madras" to the end of the section the following shall be substituted, namely:— "and the Local Government of any other part of British India may, by notification published in the local official Gazette, extend it to any part of the territories under the administration of that Local Government."

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1871	IV	The Coroners Act, 1871	In section 36, for the words "Governor General in Council" the words "Local Government" shall be substituted.
1872	III	The Special Marriage Act, 1872.	In section 13-A, for the words "Governor General in Council" wherever they occur, the words "Local Government" shall be substituted.
,,	XV	The Indian Christian Marriage Act, 1872.	For section 86 the following section shall be substituted, namely:— "86. (*1*) The powers and functions exercisable by the Governor General in Council under sections 6, 8, 9, 47, 48, 56 and 84 shall, so far as regards any Native State which is within the political charge of a Local Government, be exercised by that Local Government. The exercise under this section by any Local Government of powers and functions under sections 6, 8, 9 and 56 shall be by notification in the local official Gazette. Powers and functions exercisable as regards Native States. (*2*) The powers and functions exercisable under this Act by the Governor General in Council may be delegated to and exercised by such officers as he may from time to time appoint in this behalf."
1873	VIII	The Northern India Canal and Drainage Act, 1873.	In section 75, the words "subject to the control of the Governor General in Council" and the words "subject to the like control" shall be omitted.
1874	III	The Married Women's Property Act, 1874.	In section 2, for the words "Governor General in Council" wherever they occur the words "Local Government" and for the words "Gazette of India" the words "local official Gazette" shall be substituted.
,,	IX	The European Vagrancy Act, 1874.	In section 1, for the words from "as the Governor General in Council" to the end of the section the following shall be substituted, namely:—"as in the case of Coorg and the said Islands the Local Government by notification in the local official Gazette, and in the case of any of the said dominions, the Governor General in Council by notification in the Gazette of India, from time to time, appoints in this behalf."

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1874	IX	The European Vagrancy Act, 1874—*contd.*	To the same section, the following shall be added, namely:—"Provided further, that in the case of any of the said dominions which is within the political charge of a Local Government, the power conferred on the Governor General in Council by this section shall be exercised by that Local Government by notification in the local official Gazette." In sections 14 and 36, the words "subject to the control of the Governor General in Council" shall be omitted. In section 26, for the words "Government of India" the words "Governor, Lieutenant-Governor or Chief Commissioner of the Province concerned" and for the words "Governor General in Council" the words "Local Government" shall be substituted. To section 35 the following shall be added, namely:—"Provided that, in the case of any such place which is within the political charge of a Local Government, the power conferred on the Governor General in Council by this section shall be exercised by that Local Government by notification in the local official Gazette."
..	XIV	The Scheduled Districts Act, 1874.	In sections 3, 5 and 5-A, the words "with the previous sanction of the Governor General in Council" shall be omitted; and in sections 3 and 5, the words "in the Gazette of India and also" and the words "if any" shall be omitted. In section 9, for the words "Governor General in Council" the words "Local Government" shall be substituted.
1875	XVIII	The Indian Law Reports Act, 1875.	In the preamble, for the words "the Governor General in Council proposes" the words "it is proposed" shall be substituted. In section 3, for the words "the Governor General in Council" the words "any Local Government" shall be substituted.
„	XX	The Central Provinces Laws Act, 1875.	In section 10, the words "when sanctioned by the Governor General in Council" shall be omitted.
1876	II	The Burma Land and Revenue Act, 1876.	In section 1, the words "and with the previous sanction of the Governor-General in Council" shall be omitted. In section 57, the words "subject to any restrictions from time to time imposed by the Governor General in Council" shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1876	II	The Burma Land and Revenue Act, 1876—*contd.*	In section 60, the words "to the control of the Governor General in Council and" shall be omitted.
„	XVIII	The Oudh Laws Act, 1876	To section 39 the following shall be added, namely:—"Provided that the previous sanction of the Governor General in Council which is required by clause (*d*) shall not be necessary in the case of any tax which, under rules made under clause (*a*) of subsection (*3*) of section 80-A of the Government of India Act, may be imposed, for the purposes of the Local Government, by any law made by the local legislature without the previous sanction of the Governor General."
1878	I	The Opium Act, 1878	In sections 5 and 8, for the words "with the previous sanction" the words "subject to the control" shall be substituted. In section 13, the words "with the previous sanction of the Governor General in Council" shall be omitted.
„	VII	The Indian Forest Act, 1878	In section 1, the words "with the previous sanction of the Governor General in Council" shall be omitted. In section 31, the words "and subject to the control of the Governor General in Council" shall be omitted. In section 39, the words "subject to the control of the Governor General in Council" and the words "subject to the like control or sanction, respectively," shall be omitted.
„	XVII	The Northern India Ferries Act, 1878.	In section 4, for the first Proviso the following shall be substituted, namely:—"Provided that when a river lies between two Provinces, the powers conferred by this section shall, in respect of such river, be exercised jointly by the Local Governments of those Provinces by notifications in their respective official Gazettes, and in any case where the said Local Governments fail to agree as regards the exercise of any such power they shall exercise such power subject to the control of the Governor General in Council." In clause (*d*) of section 17, the words "subject to the control of the Governor General in Council" shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1879	VI	The Elephant's Preservation Act, 1879.	In section 1, the words "with the previous sanction of the Governor General in Council" shall be omitted. In section 6, the words "subject to the control of the Governor General in Council" shall be omitted.
„	XIII	The Oudh Civil Courts Act, 1879.	For section 6 the following shall be substituted, namely :— "6. The Judicial Commissioner, the District Judges, Subordinate Judges and Munsifs shall be appointed by the Local Government." (Appointment of officers under Act.)
„	XIV	The Hackney-carriage Act, 1879.	In section 5, for the words "Governor General in Council" where they first occur the words "Local Government" shall be substituted.
„	XVII	The Dekkhan Agriculturists' Relief Act, 1879.	In section 1, the words "with the previous sanction of the Governor General in Council" shall be omitted. In section 54, the words "and if the Government of India so direct shall" shall be omitted, and for the words "Government of India" where they occur for the second time in the same section, the words "Local Government" shall be substituted.
1880	I	The Religious Societies Act, 1880.	In section 1, for the words "Governor General in Council" the words "Local Government", and for the words "Gazette of India" the words "local official Gazette" shall be substituted.
[1]* * *	* *	* * * *	* * * *
1880	XIII	The Vaccination Act, 1880	In sections 4, 5 and 20, the words "subject to the control of the Governor General in Council" shall be omitted.
1881	V	The Probate and Administration Act, 1881.	In section 2, the words "with the previous sanction of the Governor General in Council" shall be omitted.
„	XXI	The Broach and Kaira Incumbered Estates Act, 1881.	In section 3, the words "with the previous sanction of the Governor General in Council" shall be omitted.
1882	IV	The Transfer of Property Act, 1882.	In sections 1 and 117, the words "with the previous sanction of the Governor General in Council" shall be omitted.

[1] The entry relating to the Indian Merchant Shipping Act, 1880 (VII of 1880), was repealed by s. 296 and Schedule V of the Indian Merchant Shipping Act, 1923 (XXI of 1923), *infra*.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1882	XV	The Presidency Small Cause Courts Act, 1882.	In section 7, the words "subject to the control of the Governor General in Council" and the words "with the previous sanction of the Governor General in Council" shall be omitted.
1883	XX	The Punjab District Boards Act, 1883.	In sub-section (*2*) of section 11, in proviso (*a*) the words "or the Governor General in Council, for some reason affecting the public interests, sanctions the direction," and in proviso (*b*) the words "except with the approval of the Governor General in Council or" shall be omitted. In section 30, for the words "Governor General in Council" the words "Local Government" shall be substituted. In sub-section (*2*) of section 36, the words "subject to the control of the Governor General in Council," where they occur in both places, shall be omitted. In clause (*1*) of section 55, for the words "Governor General in Council" the words "Local Government" shall be substituted, and in sub-clause (*a*) before the words "make general rules" the following shall be inserted, namely:— "in the case of taxes which under rules made under clause (*a*) of sub-section (*3*) of section 80-A of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General." In the same section, the words from "Rules made under clause 2(*b*)" to the end of the section shall be omitted.
[1] * * *	*	* * *	* * * *
1885	VIII	The Bengal Tenancy Act, 1885.	In sub-section (*7*) of section 39, the words "subject to the control of the Governor General in Council" shall be omitted. In section 101, sub-section (*1*), the words "with the previous sanction of the Governor General in Council and may" and the words "without such sanction in any of the cases next hereinafter mentioned" shall be omitted. In sub-section (*2*) of the said section, for the words from "The cases" to "the following" the following shall be substituted, namely:— "In particular and without prejudice to the generality of the foregoing power, the Local Government may make such an order in the following cases".

[1] The entry relating to the Indian Steamships Act, 1884 (VII of 1884), was repealed by s. 296 and Schedule V of the Indian Merchant Shipping Act, 1923 (XXI of 1923), *infra*.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1885	VIII	The Bengal Tenancy Act, 1885—*contd.*	In sub-section (*3*) of section 105, for the words "Government of India" the words "Local Government", and for the words "Gazette of India" the words "local official Gazette" shall be substituted. In section 112, in sub-section (*1*), the words "with the previous sanction of the Governor General in Council" and the whole of sub-section (*3*) shall be omitted.
„	XVIII	The Land Acquisition (Mines) Act, 1885.	In clause (*c*) of section 3 (*2*), and in section 8, for the words "Governor General in Council" the words "Local Government" shall be substituted. In sub-section (*2*) of section 5, the words "in such manner as the Governor General in Council may from time to time direct" shall be omitted; and to the same section the following sub-section shall be added, namely:— "(*5*) Every declaration made under this section shall be published in such manner as the Local Government may direct." In section 14, after the words "those sections" the words "except in section 5, sub-section (*5*), and section 8" shall be inserted.
1886	VI	The Births, Deaths and Marriages Registration Act, 1886.	In sub-section (*2*) of section 11, the words "with the previous approval of the Governor General in Council," shall be omitted. To section 13 the following proviso shall be added, namely:—"Provided that the powers and functions exercisable by the Governor General in Council under this section shall, in the case of any such dominions which are within the political charge of a Local Government, be exercised by that Local Government by notification in the local official Gazette." To sub-section (*2*) of section 24 the following shall be added, namely:—"Provided that such certified copies shall, in the case of any such dominions which are within the political charge of a Local Government, be sent to the Registrar General of Births, Deaths and Marriages for the territories under the administration of that Local Government." To section 32 the following shall be added, namely:—"Provided that such register or record shall, in the case of any such dominions which are within the political charge of a Local Government, be sent to the Registrar General of Births, Deaths and Marriages for the territories under the administration of that Local Government."

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1886	VI	The Births, Deaths and Marriages Registration Act, 1886—*contd.*	For sub-section (*1*) of section 33 the following shall be substituted, namely :— "(*1*) Any Local Government in the case of registers or records sent under section 32 to the Registrar General for the territories under its administration, and the Governor General in Council, in the case of registers or records so sent to any other Registrar General appointed by him under the said section, may appoint so many persons as it or he, as the case may be, thinks fit to be Commissioners for examining such registers or records." In sub-section (*2*) of the same section, for the words "Governor General in Council" the words "authority appointing them" shall be substituted. For sub-section (*1*) of section 35-A, the following shall be substituted, namely :— "(*1*) The Governor General in Council or the Local Government, if he or it thinks fit, may by notification in the Gazette of India or the local official Gazette, as the case may be, appoint more Commissions than one for the purposes of section 33, each such Commission consisting of so many and such members, and having its functions restricted to the disposal, under this Act and the rules thereunder, of such registers and records sent under section 32 to the Registrar General, as may be specified in the notification."
1887	VII	The Suits Valuation Act, 1887.	In sub-section (*1*) of section 3, for the words "with the previous sanction" the words "subject to the control" shall be substituted.
[1] * * *	*	* * *	* * * *
1887	XII	The Bengal, Agra and Assam Civil Courts Act, 1887.	For section 4 the following section shall be substituted, namely :— "4. The Local Government may alter the number of District Judges, Subordinate Judges and Munsifs now fixed." In sub-section (*1*) of section 15, after the words "Governor General in Council" the following shall be inserted, namely :— "in the case of the High Court at Calcutta and by the Local Government in other cases."

[1] The entry relating to the Native Passenger Ships Act, 1887 (X of 1887), was repealed by s. 296 and Schedule V of the Indian Merchant Shipping Act, 1923 (XXI of 1923), *infra*.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1887	XII	The Bengal, Agra and Assam Civil Courts Act, 1887—*contd.*	In clause (*b*) of section 36 (*1*), the words "with the previous sanction of the Governor General in Council" shall be omitted.
„	XVI	The Punjab Tenancy Act, 1887.	In section 107, the words "to the control of the Governor General in Council and" shall be omitted.
„	XVII	The Punjab Land-revenue Act, 1887.	In section 5, after the words "those tahsils" the words "and districts" shall be inserted and the words "districts and" where they occur for the second time shall be omitted. In clause (*a*) of section 61 (*1*) and in clause (*e*) of section 145 (*1*), the words "with the previous sanction of the Governor General in Council" shall be omitted. In sub-section (*4*) of section 145, for the words "Governor General in Council may on a reference from the Local Government" the words "Local Government may" shall be substituted; and in sub-section (*5*) of the same section for the words "Governor General in Council" the words "Local Government" shall be substituted. In section 156, the words "to the control of the Governor General in Council and" shall be omitted.
1888	XVIII	The Burma Financial Commissioner's Act, 1888.	In sections 4 and 5, the words "with the previous sanction of the Governor General in Council," and in section 5, the word "with such sanction as aforesaid," shall be omitted.
1890	VI	The Charitable Endowments Act, 1890.	In sub-section (*1*) of section 3, for the words "Governor General in Council" the words "Local Government," and for the words "any Local Government" the words "such Local Government" shall be substituted. In clause (*e*) of section 4(*3*) and in section 11, for the words "Governor General in Council" the words "Local Government" shall be substituted. For section 13 the following section shall be substituted, namely:— "13. (*1*) The Governor General in Council may prescribe forms for any proceedings under this Act and may make rules consistent with this Act for prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated, in territories subject to two or more Local Governments.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1890	VI	The Charitable Endowments Act, 1890—*contd.*	(*2*) The Local Government may make rules consistent with this Act for— (*a*) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments; (*b*) regulating the cases and the mode in which schemes or any modification thereof are to be published before they are settled or made under section 5; (*c*) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments and the mode in which such accounts are to be audited; and (*d*) generally carrying into effect the purposes of this Act." Section 16 shall be omitted.
1891	XIV	The Oudh Courts Act, 1891	In sub-section (*1*) of section 4, the words "with the previous sanction of the Governor General in Council" shall be omitted.
1894	I	The Land Acquisition Act, 1894.	In sub-section (*1*) of section 38 and in section 41, the words "subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf" shall be omitted. In sub-section (*1*) of section 55, the words "subject to the control of the Governor General in Council" shall be omitted; And to the same sub-section the following proviso shall be added, namely:— "Provided that where the provisions of this Act are put in force for the acquisition of land— (*a*) for the purposes of any railway, or (*b*) for such other purposes, connected with the administration of a central subject as defined in section 45-A of the Government of India Act, as the Governor General in Council may, by notification in the Gazette of India, declare in this behalf, the power to make, alter and add to rules conferred on the Local Government by this sub-section shall be exercised subject to the control of the Governor General in Council."

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1896	II	The Cotton Duties Act, 1896.	In sub-section (*3*) of section 28, for the words "Governor General in Council" the words "Local Government" shall be substituted.
1897	III	The Epidemic Diseases Act, 1897.	Sub-section (*3*) of section 2 shall be omitted. After section 2, the following section shall be inserted, namely :— "2A. When any Local Government is satisfied that the Province or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof, such Local Government may exercise all or any of the powers conferred by this Act on the Governor General in Council." (Concurrent powers of Local Government.)
„	IX	The Provident Funds Act, 1897.	In section 6, for the words "Governor General in Council" the words "Local Government" and for the word "his" the word "its" shall be substituted.
1898	V	The Code of Criminal Procedure, 1898.	In the proviso to section 1 (*2*), the words "with the sanction of the Governor General in Council" shall be omitted. In sections 7 (*2*), 14 (*3*), 269 (*1*), 495 (*1*), 544 and 565 (*3*), the words "with the previous sanction of the Governor General in Council" shall be omitted. For section 22, the following section shall be substituted, namely :— "22. Every Local Government, so far as regards the territories subject to its administration (other than the presidency towns), may by notification in the official Gazette appoint such European British subjects as it thinks fit to be Justices of the Peace within and for the local area mentioned in such notification." In sub-section (*1*) of section 24, for the words "Governor General in Council" the words "Local Government" and for the words "British India," where it occurs for the second time, the words "the territories subject to its administration" shall be substituted.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1898	V	The Code of Criminal Procedure, 1898—*contd.*	In section 27, the words from "the Governor General in Council" to "and" shall be omitted. In section 132, for the words "Governor General in Council" the words "Local Government" shall be substituted, and to the same section the following proviso shall be added, namely:— "Provided that no such prosecution shall be instituted in any Criminal Court against any officer or soldier in His Majesty's Army except with the sanction of the Governor General in Council." In sub-section (*4*) of section 313, after the words "Governor General in Council" the words "or the Local Government" shall be inserted.
"	XIII	The Burma Laws Act, 1898.	In sections 10 (*3*), 12 (*1*) (*b*) and (*c*) and 14 (*1*), for the words "with the previous sanction" the words "subject to the control" shall be substituted.
1899	IV	The Government Buildings Act, 1899.	In sub-section (*3*) of section 4, after the word "section" the following shall be inserted, namely:—"in regard to any building which is used or required for the administration of a central subject as defined in section 45-A of the Government of India Act or which is the property of the Government of India."
"	IX	The Indian Arbitration Act, 1899.	In the proviso to section 2, the words "with the previous sanction of the Governor General in Council" shall be omitted.
"	XIII	The Glanders and Farcy Act, 1899.	In sub-section (*1*) of section 2, for the words "Governor General in Council" the words "Local Government" and for the words "Gazette of India" the words "local official Gazette" shall be substituted.
"	XXIV	The Central Provinces Court of Wards Act, 1899.	In clause (*c*) of section 2, the words "with the previous sanction of the Governor General in Council" shall be omitted.
1900	III	The Prisoners Act, 1900	In sub-section (*1*) of section 19, for the words "British India" the words "the Province" and for the words "Governor General in Council" the words "Local Government" shall be substituted.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1900	III	The Prisoners Act, 1900—*contd.*	For section 21 the following section shall be substituted, namely:—
			"21. (*1*) The Local Government may grant to any person under sentence of penal servitude a license to be at large within such part of the Province and during such portion of his term of penal servitude as may be specified in the license and upon such conditions as the Governor General in Council may by general or special order prescribe.
			(*2*) The Local Government may revoke or, subject to such conditions, alter any license granted under sub-section (*1*)."
			In section 23, for the words "Government of India" the words "Local Government" shall be substituted.
			For sub-section (*4*) of section 30 the following shall be substituted, namely:—
			"(*4*) In any case in which the Local Government is competent under sub-section (*1*) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the Local Government may order his removal to any such asylum or place within any other Province or within the territories of any Native Prince or State in India by agreement with the Local Government of such other Province or with such Native Prince or State, as the case may be; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed under sub-section (*1*) shall, so far as they can be made applicable, apply to a prisoner removed under this sub-section."
			Section 32 shall be re-numbered section 32 (*1*) and in the same section for the words "Governor General in Council" the words "Local Government" and for the words "British India" the words "the Province" shall be substituted.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1900	III	The Prisoners Act, 1900—*concld.*	And to the same section the following sub-section shall be added, namely:— "(*2*) In any case in which the Local Government is competent under sub-section (*1*) to appoint places within the Provinces and to order the removal thereto of persons under sentence of transportation, the Local Government may appoint such places in any other Province by agreement with the Local Government of that Province, and may by like agreement give orders or duly authorise some officer to give orders for the removal thereto of such persons." In section 42, the words "The Governor General in Council or," the words "the Gazette of India or" and the words "as the case may be," shall be omitted.
"	VI	The Lower Burma Courts Act, 1900.	In sub-section (*1*) of section 17, for the words "Governor General in Council" the words "Local Government" shall be substituted.
"	XIII	The Punjab Alienation of Land Act, 1900.	In section 24, the words "with the previous sanction of the Governor General in Council" shall be omitted.
1901	VI	The Assam Labour and Emigration Act, 1901.	In clause (*b*) of section 1 (*2*) and in section 221, for the words "with the previous sanction" the words "subject to the control" shall be substituted. In sub-section (*2*) of section 64, for the words "the Governor General in Council" the words "Local Government" shall be substituted.
"	VIII	The Indian Mines Act, 1901	In sub-section (*1*) of section 18, the words "the Governor General in Council or" where they occur in both places shall be omitted.
1903	I	The Amending Act, 1903	In Part II of the Second Schedule in the entry in column 4 against Act XXI of 1836, the words "with the previous sanction of the Governor General in Council" shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1903	XVI	The Central Provinces Municipal Act, 1903.	In section 35, for the words "Governor General in Council" where they first occur the words "Local Government" shall be substituted, and to clause (*a*) the following sub-clause shall be added, namely:— "(*xii*) any other tax which, under rules made under clause (*a*) of section 80-A, sub-section (*3*), of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General."
1908	V	The Code of Civil Procedure, 1908.	In sub-section (*1*) of section 5, the words "with the previous sanction of the Governor General in Council" and the words "with the sanction aforesaid" shall be omitted. In sections 61, 67 (*1*) and (*2*), 68 and 143 the words "with the previous sanction of the Governor General in Council" shall be omitted. In section 125, for the words "as the Governor General in Council may determine" the following shall be substituted, namely:—"as, in the case of the Court of the Judicial Commissioner of Coorg, the Governor General in Council, and, in other cases the Local Government, may determine."
„	XIV	The Indian Criminal Law Amendment Act, 1908.	In sub-section (*2*) of section 1, for the words "Governor General in Council" the words "Local Government of any other Province," for the words "Gazette of India" the words "official Gazette," and for the words "any other Province" the words "that Province" shall be substituted. [1] * * * In clause (*b*) of section 15 (*2*) and in section 16, for the words "Governor General in Council" wherever they occur, the words "Local Government" shall be substituted.
„	XVI	The Indian Registration Act, 1908.	In sub-section (*2*) of section 1, the words "with the previous sanction of the Governor General in Council" shall be omitted. In sub-section (*1*) of section 4, the words "with the previous consent of the Governor General in Council" shall be omitted.

[1] The entries relating to sub-section (*3*) of section 1 and sub-section (*1*) of section 2 of the Indian Criminal Law Amendment Act, 1908, were repealed by s. 3 of the Indian Criminal Law Amendment Repealing Act, 1922 (V of 1922), *infra*.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1908	XVI	The Indian Registration Act, 1908—*contd.*	In sub-section (*1*) of section 4 and in section 78, the words "subject to the control of the Governor General in Council" shall be omitted.
[1] * * *	* *	* * *	* * * *
1910	IX	The Indian Electricity Act, 1910.	Sub-section (*3*) of section 3 shall be omitted. In section 10, the words "with the previous sanction of the Governor General in Council" shall be omitted. In sub-section (*2*) of section 32, for the words "Governor General in Council" in both places where they occur the words "Local Government," and for the word "he" the word "it" shall be substituted In sub-section (*1*) of section 34, for the words "Governor General in Council" the words "Local Government" shall be substituted.
1911	III	The Criminal Tribes Act, 1911.	For section 11 the following section shall be substituted, namely:— "11. (*1*) If the Local Government considers that it is expedient that any criminal tribe should be— (*a*) restricted in its movements to any specified area, or (*b*) settled in any place of residence, the Local Government may, by notification in the local official Gazette, declare that such criminal tribe shall be restricted in its movements to the area specified in the notification, or shall be settled in the place of residence so specified, as the case may be. Power to restrict movements of, or settle criminal tribes. (*2*) Before making any such declaration, the Local Government shall consider the following matters, namely:— (*i*) the nature and the circumstances of the offences in which the members of the criminal tribe are believed to have been concerned; (*ii*) whether the criminal tribe follows any lawful occupation, and whether such occupation is its real occupation or merely a pretence for the purpose of facilitating the commission of crimes;

[1] The entry relating to the Indian Emigration Act, 1908 (XVII of 1908), was repealed by s. 3 and Schedule I of the Repealing and Amending Act, 1923 (XI of 1923), *infra*.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1911	III	The Criminal Tribes Act, 1911—*contd.*	(*iii*) the suitability of the area to which it is proposed to restrict the movements of the criminal tribe, or of the place of residence in which it is proposed to settle it; and (*iv*) the manner in which it is proposed that the criminal tribe shall earn its living within the restricted area or in the settlement, and the adequacy of the arrangements which are proposed therefor." Section 12 shall be omitted. In sections 13, 16, 17 (*1*), 20 (*2*) (*e*) and 28, for the word and figures "section 12" the word and figures "section 11" shall be substituted. In section 19, for the words "Governor General in Council" the words "Local Government" shall be substituted, and for the words "in any part of British India" the following shall be substituted, namely:— "in the province, or, with the previous consent of the Local Government of any other province, in such other province."
1912	II	The Co-operative Societies Act, 1912.	Section 28 shall be re-numbered section 28 (*1*) and in the said section the letter and brackets "(*a*)" and the whole of clauses (*b*) and (*c*) shall be omitted. To the same section the following sub-section shall be added, namely:— "(*2*) The Local Government, by notification in the local official Gazette, may, in the case of any registered society or class of registered society, remit— (*a*) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable, and (*b*) any fee payable under the law of registration for the time being in force."

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1912	IV	The Indian Lunacy Act, 1912.	In sub-section (*1*) of section 35, for the words from "Any lunatic" to "Governor General in Council" the following shall be substituted, namely :— "Any lunatic may, in accordance with any general or special order of the Local Government, be removed from any asylum established by Government to any other asylum within the province or to any other asylum in any other province, with the consent of the Local Government of that province." In sub-section (*2*) of the same section, for the words "Governor General in Council" the words "Local Government" and for the word "he", where it first occurs, the word "it" shall be substituted; and in the same sub-section, for the words "in British India" the following shall be substituted, namely :— "in the province, or to any asylum, jail or other place of safety in any other province with the consent of the Local Government of that province." For section 85 the following section shall be substituted, namely :— "85. The Magistrates or Courts exercising jurisdiction in any province may send lunatics or any class of lunatics to any asylum situate in any other province in accordance with any general or special order of the Local Government made in that behalf with the consent of the Local Government of such other province." In sub-section (*1*) of section 91, the words "subject to the control of the Governor General in Council" shall be omitted. In section 99, for the words "Governor General in Council" the words "Local Government," and for the words "British India" the words "the province" shall be substituted.
"	VII	The Bengal, Bihar and Orissa and Assam Laws Act, 1912.	The proviso to section 3 shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Amendments.
1914	IX	The Local Authorities Loans Act, 1914.	To sub-section (*1*) of section 3 the following further proviso shall be added, namely :— "Provided further that, in the case of loans other than loans made by the Local Government, no amount exceeding twenty-five lakhs of rupees shall be borrowed unless the terms, including the date of flotation, of such loan have been approved by the Governor General in Council." In sub-section (*1*) of section 4, for the words "Governor General in Council", where they first occur, the words "Local Government" shall be substituted. In the same sub-section, in clause (*vi*) the words from "without" to the end of the clause shall be omitted; and for clause (*vii*) the following shall be substituted, namely :— "(*vii*) the cases in which local authorities may take loans from persons other than the Local Government." Sub-section (*2*) of section 4, and in sub-section (*3*) the words from "in the Gazette of India" to "delegated power," shall be omitted.
1917	I	The Inland Steam-vessels Act, 1917.	In sub-section (*1*) of section 19, the words "with the previous sanction of the Governor General in Council" shall be omitted.
1918	II	The Cinematograph Act, 1918.	In sub-section (*3*) of section 1, for the words "Governor General in Council" the words "Local Government" and for the words "Gazette of India" the words "local official Gazette" shall be substituted. In sub-section (*1*) of section 8, for the words "Governor General in Council" the words "Local Government" shall be substituted. Sub-section (*3*) of the same section shall be omitted; and in sub-section (*4*), the words "Gazette of India or" and the words "as the case may be," shall be omitted.
1919	I	The Local Authorities Pensions and Gratuities Act, 1919.	In sub-section (*1*) of section 4, for the words "Governor General in Council", where they occur for the second time, the words "Local Government" shall be substituted.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—concld.

Year.	No.	Short title or subject.	Amendments.
1919	XII	The Poisons Act, 1919	In sub-section (*1*) of section 4, for the words "with the previous sanction" the words "subject to the control" shall be substituted. In sub-section (*1*) of section 8, for the words "the Governor General in Council, or" the word "and" shall be substituted.
1920	V	The Provincial Insolvency Act, 1920.	In section 81, the words "with the previous sanction of the Governor General in Council" shall be omitted.

Part II.—Regulations by the Governor General in Council.

1880	II	The Assam Frontier Tracts Regulation, 1880.	In section 1, for the words "the Governor General in Council", where they occur in both places, the word "he" and for the words "Gazette of India" the words "local Gazette" shall be substituted. In section 2, the words "with the previous sanction of the Governor General in Council" shall be omitted.
1884	III	The Assam Frontier Tracts Regulation, 1884.	In section 1, for the words "Governor General in Council", where they occur in both places, the words "Chief Commissioner" shall be substituted.
1886	I	The Assam Land and Revenue Regulation, 1886.	In sections 1 (*2*) and 18, the words "with the previous sanction o 'he Governor General in Council", wherever they occur, shall be omitted. In proviso (*a*) to section 34, for the words "Governor General in Council" the words "Chief Commissioner" shall be substituted. In sections 122, 124 and 158 (*1*), the words "subject to the control of the Governor General in Council" shall be omitted. In sub-section (*1*) of section 139, the words "subject to such rules as the Governor General in Council may make in this behalf" shall be omitted. Sub-section (*3*) of section 157 shall be omitted.
1887	XII	The Upper Burma Ruby Regulation, 1887.	In section 14, the words "with the previous sanction of the Governor General in Council" shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part II.—Regulations by the Governor General in Council— contd.

Year.	No.	Short title or subject.	Amendments.
1889	III	The Upper Burma Land and Revenue Regulation, 1889.	In sub-sections (2) and (3) of section 27, the words "subject to the control of the Governor General in Council" shall be omitted. In sub-section (1) of section 51, the words "to the control of the Governor General in Council and" shall be omitted.
1891	VII	The Assam Forest Regulation, 1891.	In section 21, for the words "Governor General in Council" the words "Local Government" shall be substituted.
1892	V	The Upper Burma Criminal Justice Regulation, 1892.	In section 1 of the Schedule, for the words "Governor General in Council" the words "Local Government" shall be substituted. In sub-section (2) of section 12 of the Schedule, the words "The Governor General in Council or" shall be omitted.
1896	I	The Upper Burma Civil Courts Regulation, 1896.	In sub-section (1) of section 17, for the words "Governor General in Council" the words "Local Government" shall be substituted.
1899	I	The Coorg Land and Revenue Regulation, 1899.	In sections 6 (2) and 7, for the words "Governor General in Council", wherever they occur, the words "Chief Commissioner" shall be substituted.
1900	I	The Chittagong Hill-tracts Regulation, 1900.	In sections 2 (2) and 4 (2), the words "with the previous sanction of the Governor General in Council" shall be omitted.
1901	I	The Coorg Courts Regulation, 1901.	In section 3, after the words "Judicial Commissioner" the words "and the Chief Commissioner may appoint" shall be inserted. In section 18, the words "with the previous approval of the Governor General in Council" shall be omitted.
1915	I	The Excise Regulation, 1915	In sections 4 and 8, the words "with the previous sanction of the Governor General in Council" shall be omitted. To section 4 the following proviso shall be added, namely :— "Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Governor General in Council."

THE FIRST SCHEDULE—*contd.*

Part II.—Regulations by the Governor General in Council—concld.

Year.	No.	Short title or subject.	Amendments.
1915	I	The Excise Regulation, 1915—*contd.*	To section 8 the following proviso shall be added, namely :— " Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (*a*) without the previous sanction of the Governor General in Council."

Part III.—Madras Acts.

1888	I	The Local Authorities Loan Act, 1888.	In section 3, the words " with the previous sanction of the Governor General in Council " shall be omitted.
1902	I	The Madras Court of Wards Act, 1902.	In sub-section (*1*) of section 45, the words " with the previous sanction of the Governor General in Council " shall be omitted.
1919	IV	The Madras City Municipal Act, 1919.	In section 15, proviso (*a*), section 88, proviso (*a*), section 95, second proviso, and sections 144 and 145, for the words " Governor General in Council " the words " Governor in Council " shall be substituted. In section 48, the words " with the sanction of the Governor General in Council " shall be omitted. In clauses (*i*) and (*ii*) of the proviso to section 142 (*1*), the words from " or if the loan " to " Governor General in Council " shall be omitted ; and to the said proviso the following shall be added, namely :— " (*iii*) no loan exceeding in amount twenty-five lakhs of rupees shall be raised unless the terms, including the date of flotation, of such loan have been approved by the Governor General in Council." In section 143, for the words " Governor General in Council " the words " Governor in Council " shall be substituted.

Part IV.—Bombay Acts.

1866	XII	Constitution of Courts in Sindh.	In section 1, the words " with the sanction of the Government of India " shall be omitted.
1867	VI	Sanitary Regulation of the City of Bombay.	In section 1, the words " acting under the general control of the Government of India " shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part IV.—Bombay Acts—contd.

Year.	No.	Short title or subject.	Amendments.
1868	II	The Bombay Ferries Act, 1868.	In section 4, the words "or Imperial" and the words "except with the sanction of the Governor General in Council" shall be omitted.
1876	II	The Bombay City Land-revenue Act, 1876.	In section 6, the words "under the general control of the Governor General of India in Council" shall be omitted.
1878	V	The Bombay Abkari Act, 1878.	In proviso (*ii*) to section 19, the words "with the previous sanction of the Government of India" shall be omitted.
1886	VI	The Karachi Port Trust Act, 1886.	In section 3, the words "with the approval of the Governor General in Council" shall be omitted.
1888	III	The City of Bombay Municipal Act, 1888.	In section 106, for the words "Governor General of India in Council" the words "Governor in Council" shall be substituted; and to the same section the following proviso shall be added, namely:— "Provided that no loan exceeding in amount twenty-five lakhs of rupees shall be contracted by the Corporation unless the terms, including the date of flotation, of such loan have been approved by the Governor General of India in Council." In clause (*c*) of section 109, for the words "the Governor General of India in Council" the words "the Governor in Council" shall be substituted.
1890	II	The Bombay Salt Act, 1890	In sub-section (*1*) of section 4, for the words "subject to the general control of the Governor General in Council" the following shall be substituted, namely:— "subject to such control of the Governor General in Council as may be prescribed by rules made under section 45A of the Government of India Act."
"	IV	The Bombay District Police Act, 1890.	In section 4, after the word "subject" the words "in the case of officers of the Indian Police of and above the rank of Assistant Superintendent" shall be inserted, and for the words "the authorities aforesaid" the word "Government" shall be substituted. In sub-section (*2*) of section 5, the words "subject to the previous approval of the Governor General in Council" shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part IV.—Bombay Acts—concld.

Year.	No.	Short title or subject.	Amendments.
1898	IV	The City of Bombay Improvement Act, 1898.	In section 33, the words " for transmission to the Government of India " shall be omitted, and for the words " the Government of India", where they occur for the second time, the word " Government " shall be substituted. In section 37, the words " either the Government of India or " shall be omitted. In section 52, for the words " the Government of India " the word " Government " shall be substituted; and to the same section the following proviso shall be added, namely:— " Provided that no loan exceeding in amount twenty-five lakhs of rupees shall be raised by the Board, unless the terms, including the date of flotation, of such loan have been approved by the Government of India." In section 53, for the words " the Government of India " the word " Government " and for the words " with the previous consent of the Government of India " the words " subject to the provisions of the last preceding section " shall be substituted; and the words " under the last preceding section " shall be omitted. In sections 55 (*2*), 57, 61 (*2*) and 75 (*1*), for the words " the Government of India " the word " Government " shall be substituted.
1901	III	The Bombay District Municipal Act, 1901.	In section 59, for the words " Governor General in Council " the words " Governor in Council " shall be substituted; and after clause (x) the following clause shall be inserted, namely:—" (x-A) any other tax which, under rules made under clause (*a*) of section 80-A, sub-section (*3*), of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General." In clause (xi) of the same section, after the words " Governor in Council " the words " and of the Governor General in Council " shall be inserted.
1902	IV	The City of Bombay Police Act, 1902.	In section 44, for the words " Governor General in Council " the words " Governor in Council " shall be substituted.
1918	VI	The Bombay Disqualification of Aliens Act, 1918.	In section 5, the words " with the approval of the Governor General in Council " shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part V.—Bengal Acts.

Year.	No.	Short title or subject.	Amendments.
1866	II	The Calcutta Suburban Police Act, 1866.	In sub-section (*4*) of section 47-A, the words "subject to the control of the Governor General in Council" shall be omitted.
„	IV	The Calcutta Police Act, 1866.	In section 4, for the words "Governor General of India in Council" the following shall be substituted, namely:—"Lieutenant-Governor, subject to rules made under section 45-A of the Government of India Act,".
			In sub-section (*4*) of section 78-A, the words "subject to the control of the Governor General in Council" shall be omitted.
1869	VII	The Bengal Police Act, 1869	In section 5, after the word "subject" the words "in the case of officers of the Indian Police of and above the rank of Assistant Superintendent" shall be inserted.
[1] * *	* *	* *	* * *
1899	III	The Calcutta Municipal Act, 1899.	In sub-section (*3*) of section 24, the words "with the previous sanction of the Government of India" shall be omitted.
			In clauses (*i*) and (*ii*) of the proviso to section 128 (*1*), the words "or (if the loan exceeds rupees five lakhs or is to be repaid after a period exceeding thirty years) the Government of India" shall be omitted.
			After clause (*iii*) of the same proviso, the following shall be inserted, namely:—
			"(*iv*) no loan exceeding in amount twenty-five lakhs of rupees shall be raised, unless the terms, including the date of flotation, of such loan have been approved by the Government of India."
			In sub-section (*1*) of section 141-B, for the words "Government of India" the words "Local Government" shall be substituted.
1904	III	The Bengal Settled Estates Act, 1904.	In sections 7 and 16 (*5*), the words "with the previous sanction of the Governor General in Council" shall be omitted.
1908	VI	The Chota Nagpur Tenancy Act, 1908.	In section 265 (*1*), the words "with the previous sanction of the Government of India" shall be omitted.

[1] The entry relating to the Bengal Steam-boilers and Prime-movers Act, 1879, was repealed by s. 35 and Schedule of the Indian Boilers Act, 1923 (V of 1923), *infra*.

THE FIRST SCHEDULE—*contd.*

Part V.—Bengal Acts—contd.

Year.	No.	Short title or subject.	Amendments.
1909	V	The Bengal Excise Act, 1909.	In sections 4 and 11, the words " with the previous sanction of the Government of India " shall be omitted. To section 4 the following proviso shall be added, namely :— " Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Government of India." To section 11 the following proviso shall be added, namely :— " Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (*a*) without the previous sanction of the Government of India."
1911	V	The Calcutta Improvement Act, 1911.	In clauses (*i*) and (*ii*) of proviso (*b*) to section 83 (*1*) and in sections 176 (*1*) and (*2*) and 177 (*1*), the words " with the previous sanction of the Government of India " shall be omitted. In section 89, for the words " Government of India " the words " Local Government " shall be substituted; and to the same section the following proviso shall be added, namely :— " Provided that no loan exceeding in amount twenty-five lakhs of rupees shall be taken by the Board, unless the terms, including the date of flotation, of such loan have been approved by the Government of India." Section 90 shall be omitted. In sections 93 (*1*), 98, 99 and 100, for the words " Government of India ", wherever they occur, the words " Local Government " shall be substituted.
1913	II	The Bengal Board of Revenue Act, 1913.	In the proviso to section 3, the words " with the previous sanction of the Government of India " shall be omitted.
1918	III	The Bengal (Alien) Disqualification Act, 1918.	In the proviso to section 3, the words " with the approval of the Governor General in Council " shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part VI.—United Provinces Acts.

Year.	No.	Short title or subject.	Amendments.
1892	III	The United Provinces Village Courts Act, 1892.	In section 77, the words "and subject to the approval of the Governor General in Council" shall be omitted.
1899	II	Collection of Taxes by Railway Administrations.	In section 3, the words "and of the Governor General in Council" shall be omitted.
1901	II	The Agra Tenancy Act, 1901.	In sub-section (*1*) of section 52, the words "with the previous sanction of the Governor General in Council" shall be omitted.
„	III	The United Provinces Land Revenue Act, 1901.	In sections 6 and 13 (*1*), the words "with the previous sanction of the Governor General in Council" shall be omitted. In section 62, the words "in accordance with the general principles sanctioned by the Governor General in Council" shall be omitted. In the proviso to section 68, the words "without the previous sanction of the Governor General in Council" and the words "from the settlement", where they occur for the second time, shall be omitted. In sub-section (*3*) of section 86, for the words "Governor General in Council" the words "Local Government" shall be substituted.
1906	III	The United Provinces District Boards Act, 1906.	In sub-section (*1*) of section 5, the proviso shall be omitted. In sub-sections (*2*) and (*4*) of section 32 and in clause (*t*) of section 56 (*1*), after the words "Governor General in Council" the words "or Local Government" shall be inserted. In sub-section (*2*) of section 46, the words "and subject to any general or special orders of the Governor General in Council" shall be omitted; and for the words "Governor General in Council", where they occur for the second time, the words "Local Government" shall be substituted. In sub-section (*1*) of section 55, the words "with the previous approval of the Governor General in Council" shall be omitted.
1910	IV	The United Provinces Excise Act, 1910.	In sections 3 (*4*) and 9, the words "subject to such conditions (if any) as the Governor General in Council may prescribe" shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part VI.—United Provinces Acts—contd.

Year.	No.	Short title or subject.	Amendments.
1910	IV	The United Provinces Excise Act, 1910—*contd.*	In sub-section (*2*) of section 4, the words "with the previous sanction of the Government of India" shall be omitted; and to the said sub-section the following proviso shall be added, namely:— "Provided that, where the interests of any other Province may be affected, no declaration shall be made under this sub-section without the previous sanction of the Government of India." In clause (*a*) of section 14, the words "with the sanction of the Governor General in Council" shall be omitted; and to the said section the following proviso shall be added, namely:— "Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (*a*) without the previous sanction of the Government of India."
1916	II	The United Provinces Municipalities Act, 1916.	In sub-section (*2*) of section 3, the word "or" at the end of clause (*a*) and the whole of clauses (*b*) and (*c*) shall be omitted. In section 80, for the words "Governor General in Council", where they first occur, the words "Local Government" shall be substituted, and after the words "Governor General in Council", where they occur for the second time, the words "or Local Government" shall be inserted. In sub-section (*1*) of section 128, for the words "Governor General in Council", where they first occur, the words "Local Government" shall be substituted, and after clause (xiii) the following clause shall be inserted, namely:— "(xiii-A) any other tax which, under rules made under clause (*a*) of section 80-A, sub-section (*3*), of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General." In clause (xiv) of the same sub-section, for the words "any other tax" the following shall be substituted, namely:—"any tax not authorised under clauses (i) to (xiii-A)". In sub-section (*3*) of section 133, after the word and figures "clause (xiii)" the words and figures "or under clause (xiii-A)" shall be inserted.

THE FIRST SCHEDULE—*contd.*

Part VII.—Punjab Acts.

Year.	No.	Short title or subject.	Amendments.
1911.	III	The Punjab Municipal Act, 1911.	In section 61, for the words "Governor General in Council", where they first occur, the words "Local Government" shall be substituted; and after clause (B) (*i*) the following clause shall be inserted, namely:— "(*j*) any other tax which, under rules made under clause (*a*) of section 80-A, sub-section (*3*), of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General." In sub-section (*1*) of section 238, the words "with the previous approval of the Governor General in Council" and the proviso shall be omitted.
1912	V	The Colonization of Government Lands (Punjab) Act, 1912.	In the proviso to section 4, after the words "Provided that" the words "unless the Local Government by general or special order otherwise directs" shall be inserted, and the words "without the previous sanction of the Governor General in Council" shall be omitted.
1914	I	The Punjab Excise Act, 1914.	In sections 4 and 17, the words "with the previous sanction of the Governor General in Council" shall be omitted. To section 4 the following proviso shall be added, namely:— "Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Governor General in Council." To section 17 the following proviso shall be added, namely:— "Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (*a*) without the previous sanction of the Governor General in Council."

Part VIII.—Bihar and Orissa Acts.

1913	I	The Bihar and Orissa Board of Revenue Act, 1913.	In the proviso to section 3, the words "with the previous sanction of the Government of India" shall be omitted.

THE FIRST SCHEDULE—*contd.*

Part VIII.—Bihar and Orissa Acts—contd.

Year.	No.	Short title or subject.	Amendments.
1913	II	The Orissa Tenancy Act, 1913.	In sub-section (*7*) of section 46, the words "subject to the control of the Governor General in Council" shall be omitted. In sub-section (*1*) of section 112, the words "with the previous sanction of the Governor General in Council and may" and the words "without such sanction in any of the cases next hereinafter mentioned" shall be omitted. In sub-section (*2*) of the said section, for the words from "The cases" to "the following" the following shall be substituted, namely :— "In particular and without prejudice to the generality of the foregoing power, the Local Government may make such an order in the following cases". In sub-section (*3*) of section 128, for the words "Governor General in Council" the words "Local Government" and for the words "Gazette of India" the words "local official Gazette" shall be substituted. In sub-section (*1*) of section 143, the words "with the previous sanction of the Governor General in Council" shall be omitted. In sub-section (*3*) of the same section, for the words "Governor General in Council", where they occur in both places, the words "Local Government" shall be substituted. In sub-section (*1*) of section 192, the words "with the previous sanction of the Governor General in Council" and the words "with the like sanction" shall be omitted.
1915	II	The Bihar and Orissa Excise Act, 1915.	In sections 4 and 11, the words "with the previous sanction of the Government of India" shall be omitted. To section 4 the following proviso shall be added, namely :— "Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Government of India."

THE FIRST SCHEDULE—*contd.*

Part VIII.—Bihar and Orissa Acts—concld.

Year.	No.	Short title or subject.	Amendments.
1915	II	The Bihar and Orissa Excise Act, 1915—*contd.*	To section 11, the following proviso shall be added, namely :— "Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (*a*) without the previous sanction of the Government of India."

Part IX.—Eastern Bengal and Assam Act.

1910	I	The Eastern Bengal and Assam Excise Act, 1910.	In section 4, the words "with the previous sanction of the Governor General in Council" shall be omitted, and to the said section the following proviso shall be added, namely :— "Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Governor General in Council." In section 12, the words "with the sanction of the Governor General in Council" shall be omitted, and to the said section the following proviso shall be added, namely :— "Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (*a*) without the previous sanction of the Governor General in Council."

Part X.—Central Provinces Acts.

1915	II	The Central Provinces Excise Act, 1915.	In clause (*3*) of section 2, the words "subject to the control of the Governor General in Council" shall be omitted. In sections 4 and 8, the words "with the previous sanction of the Governor General in Council" shall be omitted. To section 4 the following proviso shall be added, namely :— "Provided that, where the interests of any other Province may be affected, no such declaration shall be made without the previous sanction of the Governor General in Council."

THE FIRST SCHEDULE—*contd.*

Part X.—Central Provinces Acts—contd.

Year.	No.	Short title or subject.	Amendments.
1915	II	The Central Provinces Excise Act, 1915—*contd.*	To section 8 the following proviso shall be added, namely :— "Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (*a*) without the previous sanction of the Governor General in Council."
1917	I	The Central Provinces Courts Act, 1917.	In sub-section (*1*) of section 4, the words "with the sanction of the Governor General in Council" shall be omitted, and after the word "Judges" the words "who shall be appointed by the Local Government and" shall be inserted. For sub-section (*2*) of the same section the following shall be substituted, namely :— "(*2*) The Local Government shall appoint one of such Judges to be the Judicial Commissioner, and the others shall be Additional Judicial Commissioners".
,,	II	The Central Provinces Land Revenue Act, 1917.	Section 4 shall be omitted. In sub-section (*2*) of section 5, for the words "with the previous sanction" the words "subject to the control" shall be substituted. In sub-section (*1*) of section 8, the words "with the previous sanction of the Governor General in Council" shall be omitted.

Part XI.—Burma Acts.

1898	III	The Burma Municipal Act, 1898.	In sections 37, 38 and 38-B, after the words "Governor General in Council", wherever they occur, the words "or of the Local Government" shall be inserted. In sub-section (*1*) of section 46, for the words "Governor General in Council" the words "Local Government" shall be substituted, and after clause (*h*) of division (A) the following clause shall be inserted, namely :— "(*i*) any other tax which, under rules made under clause (*a*) of section 80-A, sub-section (*3*), of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature with the previous sanction of the Governor General."

THE FIRST SCHEDULE—*contd.*

Part XI.—Burma Acts—contd.

Year.	No.	Short title or subject.	Amendments.
1898	III	The Burma Municipal Act, 1898—*contd.*	In division (B) of the same sub-section, for the words "any other tax" the words "any tax not authorised under division (A)" shall be substituted.
„	IV	The Lower Burma Town and Village Lands Act, 1898.	In sections 17 (*1*) and 43, the words "subject to the control of the Governor General in Council" shall be omitted.
1899	IV	The Rangoon Police Act, 1899.	In sections 6 and 9, after the word "subject" the words "in the case of officers of the Indian Police of and above the rank of Assistant Superintendent" shall be inserted. In section 7, for the words from "may appoint" to the end of the section the following shall be substituted, namely :— "may, subject to rules made under section 45-A of the Government of India Act, appoint so many Superintendents of Police as it thinks fit."
1902	IV	The Burma Forest Act, 1902.	In section 23, for the words "Governor General in Council" the words "Local Government" shall be substituted.
1905	IV	The Rangoon Port Act, 1905.	In sub-section (*1*) of section 5, the words "with the previous sanction of the Governor General in Council" shall be omitted.
1907	VI	The Burma Village Act, 1907.	In sub-section (*1*) of section 29, the words "subject to the control of the Governor General in Council" shall be omitted.
1910	I	The Burma Process Fees Act, 1910.	In section 3, the words "subject to the control of the Governor General in Council and" shall be omitted.
1917	IV	The Rangoon Hackney Carriages Act, 1917.	In section 2, the words "subject to the control of the Governor General in Council" shall be omitted; and to the same section the following proviso shall be added, namely :— "Provided that the Local Government, when extending this Act or any provisions thereof to any cantonment, shall exercise its powers under this section subject to the control of the Governor General in Council."

THE FIRST SCHEDULE—*concld.*

Part XI.—Burma Acts—concld.

Year.	No.	Short title or subject.	Amendments.
1917	V	The Burma Excise Act, 1917.	In section 3, the words "subject to the control of the Governor General in Council" shall be omitted, and to the said section the following proviso shall be added, namely :— "Provided that, where the interests of any other Province may be affected, such declaration shall be made subject to the control of the Governor General in Council." In section 8, the words "with the sanction of the Governor General in Council" shall be omitted, and to the said section the following proviso shall be added, namely :— "Provided that, where the interests of any other Province may be affected, no notification prohibiting the import or export of any excisable article shall be issued without the sanction of the Governor General in Council."

THE SECOND SCHEDULE.

(See section 3.)

Acts of the Governor General in Council.

Year.	No.	Short title or subject.	Extent of repeal.
1890	XVI	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890.	Section 2.
1891	II	The Indian Christian Marriage Act (1872) Amendment Act, 1891.	Section 10.
1895	XVI	The Amending Act, 1895 .	In the Second Schedule, Part I, the entry relating to Bombay Act II of 1876.
1911	XV	The Indian Forest Amendment Act, 1911.	Section 4 and clauses (*a*) and (*c*) of section 5.

THE SECOND SCHEDULE—*contd.*

Acts of the Governor General in Council—contd.

Year.	No.	Short title or subject.	Extent of repeal.
1914	IV	The Decentralization Act, 1914.	In Part I of the Schedule— (1) the entries relating to— section 75 of Act VIII of 1873, section 14 of Act IX of 1874, sections 4 and 5 of Act XIII of 1880, section 4 of Act XII of 1887, section 55 of Act I of 1894, and sections 14 and 78 of Act XVI of 1908; (2) in the entry relating to section 36 of Act IX of 1874, the words "subject to the control of the Governor General in Council"; (3) in the entry relating to section 36, sub-section (*2*), of Act XX of 1883, the words "Subject to the control of the"; and (4) in the entry relating to section 55 of the same Act, the words from "and to the section" to the end of the entry.
„	X	The Repealing and Amending Act, 1914.	In the First Schedule, the entry relating to Act XV of 1872.
1919	XVIII	The Repealing and Amending Act, 1919.	In the Second Schedule, the entry relating to Act IV of 1912.
		Bombay Act.	
1888	IV	The City of Bombay Municipal Act Amendment Act, 1888.	Sections 2 and 3.
		Bengal Acts.	
1907	I	The Bengal Tenancy (Amendment) Act, 1907.	Sub-section (*3*) of section 36.
1915	V	The Bengal Decentralization Act, 1915.	In the Schedule, Part II, the entry relating to Bengal Act II of 1866 and the entry relating to section 78-A of Bengal Act IV of 1866.

THE SECOND SCHEDULE—*concld.*

Eastern Bengal and Assam Act.

Year.	No.	Short title or subject.	Extent of repeal.
1908	I	The Eastern Bengal and Assam Tenancy (Amendment) Act, 1908.	Sub-section (*3*) of section 36.

Burma Act.

1913	I	The Burma Land and Revenue (Amendment) Act, 1913.	Sub-section (*2*) of section 4.

ACT No. XXXIX OF 1920.[1]

[*14th September, 1920.*]

An Act to provide for the punishment of malpractices in connection with elections, and to make further provision for the conduct of inquiries in regard to disputed elections to legislative bodies constituted under the Government of India Act.

WHEREAS it is expedient to provide for the punishment of malpractices in connection with elections, and to make further provision for the conduct of inquiries in regard to disputed elections to legislative bodies constituted under the Government of India Act; It is hereby enacted as follows:—

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Indian Elections Offences and Inquiries Act, 1920; and

(*2*) It extends to the whole of British India.

PART I.

AMENDMENT OF THE INDIAN PENAL CODE AND CODE OF CRIMINAL PROCEDURE.

Amendment of the Indian Penal Code.

2. (*1*) In section 21 of the [2]Indian Penal Code, after the tenth entry, the following shall be inserted, namely, "*Eleventh.*—Every XLV of 1860

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 134; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 177, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1004 and 1146.

[2] General Acts, Vol. I.

person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election"; and after *Explanation 2*, the following shall be added, namely:—

"*Explanation 3.*—The word 'election' denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election."

(2) After Chapter IX of the same Code the following Chapter shall be inserted, namely:—

"CHAPTER IXA.

Of offences relating to elections.

"Candidate" "electoral right" defined.

171A. For the purposes of this Chapter—

(*a*) "candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat; provided that he is subsequently nominated as a candidate at such election;

(*b*) "electoral right" means the right of a person to stand or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

Bribery.

171B. (*1*) Whoever—

(*i*) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(*ii*) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(*2*) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(*3*) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

Undue influence at elections.

171C. (*1*) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), whoever—

(*a*) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(*b*) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (*1*).

(*3*) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

Personation at elections.

171D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

Punishment for bribery.

171E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

Explanation.—'Treating' means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

Punishment for undue influence or personation at an election.

171F. Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

False statement in connection with an election.

171G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

Illegal payments in connection with an election.

171H. Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication or in any other way whatsoever for the purpose of promoting or

procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

Failure to keep election accounts.

171-I. Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees."

Amendment of the Code of Criminal Procedure.

V of 1898.

3. (*1*) In section 196 of the [1]Code of Criminal Procedure, 1898, after the words "Chapter VI" the words "or IX A" shall be inserted.

(*2*) In Schedule II to the same Code, after the entries relating to Chapter IX of the [2]Indian Penal Code the following shall be added, namely:—

XLV of 1860.

"CHAPTER IX A.—OFFENCES RELATING TO ELECTIONS.

171E	Bribery .	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for one year, or fine, or both or if treating only, fine only.	Presidency Magistrate or Magistrate of the First Class.
171F	Undue influence and personation at an election.	do.	do.	do.	do.	Imprisonment of either description for one year, or fine, or both.	do.
171G	False statement in connection with an election.	do.	do.	do.	do.	Fine . .	do.
171H	Illegal payments in connection with elections.	do.	do.	do.	do.	Fine of 500 rupees.	do.
171-I	Failure to keep election accounts.	do.	do.	do.	do.	Fine of 500 rupees.	do."

PART II.

ELECTION INQUIRIES AND OTHER MATTERS.

Definitions.

4. In this Part, unless there is anything repugnant in the subject or context,—

(*a*) "costs" means all costs, charges and expenses of, or incidental to, an inquiry;

[1] General Acts, Vol. V.
[2] General Acts, Vol. I.

(*b*) "election" means an election to either Chamber of the Indian Legislature or to a Legislative Council constituted under the Government of India Act;

(*c*) "inquiry" means an inquiry in respect of an election by Commissioners appointed for that purpose by the Governor General, Governor or Lieutenant-Governor;

(*d*) "pleader" means any person entitled to appear and plead for another in a Civil Court, and includes an advocate, a vakil, and an attorney of a High Court.

Powers of Commissioners.

5. Commissioners appointed to hold an inquiry shall have the powers which are vested in a Court under the [1]Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:— V of 1908.

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

(*c*) compelling the production of documents,

(*d*) examining witnesses on oath,

(*e*) granting adjournments,

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to them to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the [2]Code of Criminal Procedure, 1898. V of 1898.

Explanation.—For the purposes of enforcing the attendance of witnesses, the local limits of the Commissioners' jurisdiction shall be the limits of the Province in which the election was held.

Application of Act I of 1872 to inquiries.

6. The provisions of the [3]Indian Evidence Act, 1872, shall, subject to the provisions of this Act, be deemed to apply in all respects to an inquiry. I of 1872.

Documentary evidence.

7. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

Obligation of witness to answer any certificate of indemnity.

8. (*1*) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in an inquiry upon the ground that the answer to such question will criminate or may tend, directly or indirectly, to criminate him; or that it will expose, or tend, directly or indirectly, to expose, him to a penalty or forfeiture of any kind:

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[1] General Acts, Vol. VI.
[2] General Acts, Vol. V.
[3] General Acts, Vol. II.

Provided that—

(*i*) no person who has voted at an election shall be required to state for whom he has voted; and

(*ii*) a witness who, in the opinion of the Commissioners, has answered truly all questions which he has been required by them to answer shall be entitled to receive a certificate of indemnity, and such certificate may be pleaded by such person in any Court and shall be deemed to be a full and complete defence to or upon any charge under Chapter IXA of the [1]Indian Penal Code arising out of the matter to which such certificate relates, nor shall any such answer be admissible in evidence against him in any suit or other proceeding.

XLV of 1860.

(*2*) Nothing in sub-section (*1*) shall be deemed to relieve a person receiving a certificate of indemnity from any disqualification in connection with an election imposed by any law or any rule having the force of law.

Appearance by pleader.

9. Any appearance, application or act before the Commissioners may be made or done by the party in person or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, if the Commissioners so direct, be made by the party in person.

Expenses of witnesses.

10. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Commissioners to such person, and shall, unless the Commissioners otherwise direct, be deemed to be part of the costs.

Costs and pleaders' fees, etc.

11. (*1*) Costs shall be in the discretion of the Commissioners, and the Commissioners shall have full power to determine by and to whom and to what extent such costs are to be paid and to include in their report all necessary recommendations for the purposes aforesaid. The Commissioners may allow interest on costs at a rate not exceeding six per cent. per annum, and such interest shall be added to the costs.

(*2*) The fees payable by a party in respect of fees of his adversary's pleader shall be such fees as the Commissioners may allow.

Execution of orders as to costs.

12. Any order made by the Governor General or Governor or Lieutenant-Governor on the report of the Commissioners regarding the costs of the inquiry may be produced before the principal Civil Court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or, where such place is within the local limits of the ordinary original civil jurisdiction of a chartered High Court, before

[1] General Acts, Vol. I.

the Court of Small Causes having jurisdiction there, and such Court shall execute such order or cause it to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

Disqualification of persons found guilty of election offences.

13. Any person who has been convicted of an offence under section 171E or 171F of the [1]Indian Penal Code or has been disqualified from exercising any electoral right, for a period of not less than five years, on account of malpractices in connection with an election shall be disqualified for five years from the date of such conviction or disqualification from— XLV of 1860.

(*a*) being appointed to, or acting in, any judicial office;

(*b*) being elected to any office of any local authority when the appointment to such office is by election, or holding or exercising any such office to which no salary is attached;

(*c*) being elected or sitting or voting as a member of any local authority; or

(*d*) being appointed or acting as a trustee of a public trust:

Provided that the Governor General, in the case of an election to the Council of State or the Legislative Assembly, and the Governor or the Lieutenant-Governor, in the case of an election to his Legislative Council, may exempt any such person from such disqualification.

Maintenance of secrecy of voting.

14. (*1*) Every officer, clerk, agent or other person who performs any duties in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(*2*) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for a term not exceeding three months or with fine, or with both.

THE ALIGARH MUSLIM UNIVERSITY ACT, 1920.

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ACT No. XL OF 1920.[1]

[*14th September, 1920.*]

An Act to establish and incorporate a teaching and residential Muslim University at Aligarh.

WHEREAS it is expedient to establish and incorporate a teaching and residential Muslim University at Aligarh, and to dissolve the Societies registered under the [2]Societies' Registration Act, 1860, which are respectively known as the Muhammadan Anglo-Oriental College, Aligarh, and the Muslim University Association, and to transfer to and vest in the said University all properties and rights of the said Societies and of the Muslim University Foundation Committee;

XXI of 1860.

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Aligarh Muslim University Act, 1920. Short title and commencement.

(*2*) It shall come into force on such date[3] as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, and in all Statutes made hereunder, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "Academic Council" means the Academic Council of the University;

(*b*) "Court" means the Court of the University;

(*c*) "Executive Council" means the Executive Council of the University;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 147; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 236, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1057, 1105 and 1178.

[2] General Acts, Vol. I.

[3] This Act was brought into force from the 1st December 1920, *see* Gazette of India, 1920, Pt. I, p. 2213.

(*d*) "Hall" means a unit of residence for students of the University, provided or maintained by the University;

(*e*) "registered graduates" means graduates registered under the provisions of this Act;

(*f*) "Statutes," "Ordinances" and "Regulations" mean, respectively, the Statutes, Ordinances and Regulations of the University for the time being in force;

(*g*) "teachers" means Professors, Readers, Lecturers, Demonstrators and such other persons as may be appointed for imparting instruction in the University or a Hall; and

(*h*) "University" means the Aligarh Muslim University.

The University.

Incorporation.

3. The First Chancellor, Pro-Chancellor and Vice-Chancellor who shall be the persons appointed in this behalf by a notification of the Governor General in Council in the Gazette of India, and the persons specified in the Schedule as the first members of the Court and all persons, who may hereafter become, or be appointed as, such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the Aligarh Muslim University, and shall have perpetual succession and a Common Seal and shall sue and be sued by that name.

Dissolution of the Muhammadan Anglo-Oriental College, Aligarh, and the Muslim University Association, and transfer of all property to the University.

4. From the commencement of this Act—

(*i*) The Societies known as the Muhammadan Anglo-Oriental College, Aligarh, and the Muslim University Association shall be dissolved, and all property, moveable and immoveable, and all rights, powers and privileges of the said Societies and all property, moveable and immoveable, and all rights, powers and privileges of the Muslim University Foundation Committee shall be transferred to and vest in the University and shall be applied to the objects and purposes for which the University is incorporated;

(*ii*) all debts, liabilities and obligations of the said Societies and Committee shall be transferred to the University and shall thereafter be discharged and satisfied by it;

(*iii*) all references in any enactment to either of the said Societies or to the said Committee shall be construed as references to the University;

(*iv*) any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour either of the said Societies or of the said Committee shall, on the commencement of this Act, be construed as if the University was therein named instead of such Society or Committee;

(*v*) subject to any orders which the Court may make, the buildings which belonged to the Muhammadan Anglo-Oriental College, Aligarh, shall continue to be known and designated by the names and styles by which they were known and designated immediately before the commencement of this Act;

(*vi*) subject to the provisions of this Act, every person employed immediately before the commencement of this Act in the Muhammadan Anglo-Oriental College, Aligarh, shall hold employment in the University by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held the same under the Muhammadan Anglo-Oriental College, Aligarh, if this Act had not been passed.

Powers of the University.

5. The University shall have the following powers, namely:—

(1) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge;

(2) to promote Oriental and Islamic studies and give instruction in Muslim theology and religion and to impart moral and physical training;

(3) to hold examinations and to grant and confer degrees and other academic distinctions to and on persons who—

(*a*) shall have pursued a course of study in the University, or

(*b*) are teachers in educational institutions,

under conditions laid down in the Statutes and Ordinances, and shall have passed the examinations of the University, under like conditions;

(4) to confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes;

(5) to grant such diplomas to and to provide such lectures and instruction for persons, not being members of the University, as the University may determine;

(6) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine;

(7) to institute Professorships, Readerships, Lectureships and any other teaching posts required by the University, and to appoint persons to such Professorships, Readerships, Lectureships and posts;

(8) to institute and award Fellowships (including Travelling Fellowships), Scholarships, Exhibitions and Prizes in accordance with the Statutes and the Ordinances;

(9) to institute and maintain Halls for the residence of students of the University;

(10) to demand and receive such fees and other charges as may be prescribed by the Ordinances;

(11) to supervise and control the residence and discipline of students of the University, and to make arrangements for promoting their health; and

(12) to do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University as a teaching and examining body, to cultivate and promote arts, science and other branches of learning, including professional studies, technology, Islamic learning and Muslim theology, and to promote the interests of its students.

Recognition of degrees.

6. The degrees, diplomas and other academic distinctions granted or conferred to or on persons by the University shall be recognised by the Government as are the corresponding degrees, diplomas and other academic distinctions granted by any other University incorporated under any enactment.

Reserve funds.

7. The University shall invest and keep invested in securities in which trust funds may be invested in accordance with the law for the time being in force relating to trusts in British India a sum of thirty lakhs of rupees as a permanent endowment to meet the recurring charges of the University other than charges in respect of Fellowships, Scholarships, Prizes and rewards:

Provided that—

(1) any Government securities as defined in the [1]Indian Securities Act, 1920, which may be held by the University shall, for the purposes of this section, be reckoned at their face value; and X of 1920.

(2) the aforesaid sum of thirty lakhs shall be reduced by such sums as, at the commencement of this Act, the Governor General in Council shall, by order in writing, declare to be the total capitalised value, for the purpose of this section—

(*a*) of all permanent recurring grants of money which have been made either to the Muhammadan Anglo-Oriental College, Aligarh, the Muslim University Association or the Muslim University Foundation Committee, by any Ruler of a State in India; and

(*b*) of the total income accruing from immoveable property (not being land or buildings, in the occupation and use of the said College) which by the operation of this Act has been transferred to the University.

University open to all races, creeds and classes.

8. The University shall, subject to the provisions of this Act and the Ordinances, be open to all persons of either sex and of whatever race, creed or class:

[1] *Supra.*

Provided that special provision may be made by the Ordinances exempting women from attending at public lectures and tutorial classes and prescribing for them special courses of study.

Religious instruction.

9. The Court shall have power to make Statutes providing that instruction in the Muslim religion shall be compulsory in the case of Muslim students.

Residence of students.

10. Every student of the University shall reside either in a Hall or under such conditions as may be prescribed by the Ordinances.

Teaching of the University.

11. (*1*) All recognised teaching in connection with the University courses shall be conducted by and in the name of the University and shall include lecturing, laboratory work and other teaching conducted in the University by the teachers thereof in accordance with any syllabus prescribed by Regulations.

(*2*) Recognised teaching shall also include tutorial instruction given in the University or, under the control of the University, in Halls: provided that every student not residing in a Hall shall be attached to a Hall for such tutorial instruction and disciplinary supervision and for such other purposes as may be prescribed by the Ordinances.

(*3*) The authorities responsible for organising such teaching shall be prescribed by the Statutes.

(*4*) The courses shall be prescribed by the Ordinances.

Power to provide and recognise Intermediate colleges and schools.

12. (*1*) The University shall, subject to the Statutes, have power to establish and maintain Intermediate colleges and schools, within such limits in the Aligarh District as may be laid down in the Ordinances, for the purpose of preparing students for admission to the University, and may provide for instruction in the Muslim religion and theology in any such colleges and schools.

(*2*) With the approval of the Academic Council and the sanction of the Governor General in Council on the recommendation of the Visiting Board, and subject to such conditions as may be prescribed by the Statutes and the Ordinances, the University may admit Intermediate colleges and schools in the Aligarh District to such privileges of the University as it thinks fit.

The Lord Rector.

The Lord Rector.

13. (*1*) The Governor General shall be the Lord Rector of the University.

(*2*) The Lord Rector shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories, and equipment, and of any institution maintained by the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the

University. The Lord Rector shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

(*3*) The Lord Rector may address the Vice-Chancellor with reference to the result of such inspection and inquiry, and the Vice-Chancellor shall communicate to the Court the views of the Lord Rector with such advice as the Lord Rector may be pleased to offer upon the action to be taken thereon.

(*4*) The Court shall communicate through the Vice-Chancellor to the Lord Rector such action, if any, as it is proposed to take or has been taken upon the result of such inspection or inquiry.

(*5*) Where the Court does not, within reasonable time, take action to the satisfaction of the Lord Rector, the Lord Rector may, after considering any explanation furnished or representation made by the Court, issue such directions as he may think fit, and the Court shall comply with such directions.

The Visiting Board.

The Visiting Board.

14. (*1*) The Visiting Board of the University, if and when the United Provinces of Agra and Oudh become a Governor's Province within the meaning of the Government of India Act, shall consist of the Governor thereof, the members of the Executive Council, the Ministers, one member nominated by the Governor and one member nominated by the Minister in charge of Education:

Provided that until a Governor's Province is so constituted, the Lieutenant-Governor of the said Provinces shall discharge and perform the duties of the Visiting Board.

(*2*) The Visiting Board shall have the right through any of its members to inspect the University and to satisfy itself that the proceedings of the University are in conformity with the Act, Statutes and Ordinances. The Visiting Board shall in every case give notice to the University of its intention to inspect, and the University shall be entitled to be represented at such inspection.

(*3*) Visiting Board may, by order in writing, annul any proceedings not in conformity with the Act, Statutes and Ordinances, provided that before making any such order the Board shall call upon the University to show cause why such order should not be made, and if any cause is shown within reasonable time, shall consider the same.

Rectors.

Rectors.

15. The persons specified in the Statutes shall be the Rectors of the University.

Officers of the University.

Officers of the University.

16. The following shall be officers of the University:—

(1) The Chancellor,

(2) The Pro-Chancellor,

(3) The Vice-Chancellor,

(4) The Pro-Vice-Chancellor, and

(5) Such other officers as may be declared by the Statutes to be officers of the University.

The Chancellor.

17. (*1*) The successors to the first Chancellor shall be elected by the Court.

(*2*) The Chancellor shall hold office for three years.

(*3*) The Chancellor shall, by virtue of his office, be the head of the University.

(*4*) The Chancellor shall, if present, preside at Convocations of the University held for conferring degrees and at meetings of the Court.

(*5*) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

The Pro-Chancellor.

18. (*1*) The successors to the first Pro-Chancellor shall be elected by the Court.

(*2*) The Pro-Chancellor shall hold office for three years.

(*3*) Casual vacancies in the office of the Pro-Chancellor shall be filled by the Chancellor on the recommendation of the Executive Council. The person so appointed shall hold office till the next annual meeting of the Court.

(*4*) The Pro-Chancellor shall, in the absence of the Chancellor, exercise the functions of the Chancellor.

The Vice-Chancellor.

19. (*1*) The successors to the first Vice-Chancellor shall be elected by the Court from among its members. Every such election shall be subject to the approval of the Governor General in Council.

(*2*) The Vice-Chancellor shall exercise such powers and perform such functions as may be prescribed by the Statutes.

The Pro-Vice-Chancellor.

20. (*1*) The Pro-Vice-Chancellor shall be appointed by the Court.

(*2*) He shall hold office for such term and with such powers and subject to such conditions as may be prescribed by the Statutes.

Other officers.

21. The powers of officers of the University other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor shall be prescribed by the Statutes and the Ordinances.

Authorities of the University.

Authorities of the University.

22. The following shall be the authorities of the University:—

(1) The Court,

(2) The Executive Council,

(3) The Academic Council, and

(4) Such other authorities as may be declared by the Statutes to be authorities of the University.

The Court.

23. (*1*) The Court shall consist of the Chancellor, the Pro-Chancellor and the Vice-Chancellor for the time being, and such other persons as may be specified in the Statutes:

Provided that no person other than a Muslim shall be a member thereof.

(*2*) The Court shall be the supreme governing body of the University and shall exercise all the powers of the University, not otherwise provided for by this Act, the Statutes, the Ordinances and the Regulations. It shall have power to review the acts of the Executive and the Academic Councils (save where such Councils have acted in accordance with powers conferred on them under this Act, the Statutes or the Ordinances) and direct that necessary action be taken by the Executive or the Academic Council, as the case may be, on any recommendations of the Lord Rector.

(*3*) Subject to the provisions of this Act, the Court shall exercise the following powers and perform the following duties, namely:—

(*a*) of making Statutes and of amending or repealing the same;

(*b*) of considering Ordinances;

(*c*) of considering and passing resolutions on the annual report, the annual accounts and the financial estimates;

(*d*) of electing such persons to serve on authorities of the University and of appointing such officers as may be prescribed by this Act or the Statutes; and

(*e*) of exercising such other powers and performing such other duties as may be conferred or imposed upon it by this Act or the Statutes.

The Executive Council.

24. The Executive Council shall be the executive body of the University. Its constitution and the term of office of its members and its powers and duties shall be prescribed by the Statutes.

The Academic Council.

25. (*1*) The Academic Council shall be the academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation of, and be responsible for the maintenance of standards of instruction, and for the

education, examination, discipline and health of students, and for the conferment of degrees (other than honorary).

(2) The constitution of the Academic Council and the term of office of its members and its powers and duties shall be prescribed by the Statutes.

26. The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University, shall be prescribed by the Statutes. Other authorities of the University.

Statutes, Ordinances and Regulations.

27. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:— Power to make Statutes.

(*a*) the conferment of honorary degrees and the appointment of Rectors;

(*b*) the institution of Fellowships, Scholarships, Exhibitions, Medals and Prizes;

(*c*) the terms of office, and the method and conditions of appointment of the officers of the University;

(*d*) the designations and powers of officers of the University;

(*e*) the constitution, powers and duties of the authorities of the University;

(*f*) the classification and mode of appointment of teachers of the University;

(*g*) the institution and maintenance of Halls;

(*h*) the constitution of provident and pension funds for the benefit of the officers, teachers and servants of the University;

(*i*) the maintenance of a register of registered graduates;

(*j*) the instruction of Muslim students in the Muslim religion and theology;

(*k*) the establishment of Intermediate colleges and schools; and

(*l*) all matters which by this Act are to be or may be prescribed by Statutes.

28. (*1*) The first Statutes are those set out in the Schedule. Statutes.

(*2*) The first Statutes may be amended, repealed or added to by Statutes made by the Court in the following manner:—

(*a*) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court. Such draft shall be considered by the Court at its next meeting. The Court may approve such draft and pass the Statute, or may reject it or return it to the Executive Council for re-consideration, either in whole or in part, together with any amendments which the Court may suggest.

(*b*) The Executive Council shall not propose the draft of any Statute affecting the status, powers or constitution of any existing authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court.

(*c*) No new Statute or amendment or repeal of an existing Statute shall have any validity until it has been submitted through the Visiting Board (which may record its opinion thereon) to the Governor General in Council, and has been approved by the latter, who may sanction, disallow or remit it for further consideration:

Provided that no Statute dealing with the instruction of Muslim students in the Muslim religion and theology shall require to be so submitted or approved.

Power to make Ordinances.

29. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(*a*) the courses of study to be laid down for all degrees and diplomas of the University;

(*b*) the conditions of the award of Fellowships, Scholarships, Exhibitions, Medals and Prizes;

(*c*) the conditions under which students may be admitted to the degree or diploma courses and to the examinations of the University, and shall be eligible for degrees and diplomas;

(*d*) the admission of students to the University;

(*e*) the terms of office and terms and manner of appointment and the duties of Examining Bodies, Examiners, and Moderators and the conduct of examinations;

(*f*) the conditions of residence of students of the University, and the levying of fees for residence in Halls and of other charges;

(*g*) the conditions under which women may be exempted from attendance at lectures and tutorial classes, and the prescription for them of special courses of study;

(*h*) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(*i*) the maintenance of discipline among the students of the University;

(*j*) the management of any Intermediate colleges or schools maintained by the University and the supervision of any Intermediate colleges and schools admitted to privileges under section 12; and

(*k*) all matters which by this Act or the Statutes are to be or may be provided for by Ordinances.

Ordinances.

30. (*1*) The Executive Council or, in academic matters, the Academic Council may make Ordinances.

(*2*) The first Ordinances shall be framed as directed by the Governor General in Council, and shall receive such previous approval as he may direct.

(*3*) No new Ordinance, or amendment or repeal of an existing Ordinance shall have any validity until it has been submitted through the Court and the Visiting Board (which may record its opinion thereon) to the Governor General in Council, and has obtained the approval of the latter, who may sanction, disallow or remit it for further consideration.

(*4*) If any question arises between the Executive and the Academic Councils as to which has the power to make an Ordinance, either Council may represent the matter to the Visiting Board who shall refer the same to a tribunal consisting of three members, one of whom shall be nominated by the Executive Council, one by the Academic Council, and one shall be a Judge of a High Court nominated by the Lord Rector.

Regulations.

31. (*1*) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances—

(*a*) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(*b*) providing for all matters which by this Act, the Statutes or the Ordinances, are to be prescribed by Regulations; and

(*c*) providing for all other matters solely concerning such authorities or committees appointed by them not provided for by this Act, the Statutes and the Ordinances.

(*2*) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

Admission and Examinations.

Admission to the University.

32. (*1*) Admission of students to the University shall be made by an Admission Committee consisting of the Pro-Vice-Chancellor, the Principal of an Intermediate College who shall be selected by the Vice-Chancellor and such other persons as may be appointed by the Academic Council.

(*2*) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force,

or an examination recognised in accordance with the provisions of this section as equivalent to the Intermediate Examination, and possess such further qualifications as may be prescribed by the Ordinances.

(*3*) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances.

(*4*) The University shall not, save with the previous sanction of the Governor General in Council, recognise (for the purpose of admission to a course of study for a degree) as equivalent to its own degrees, any degree conferred by any other University or as equivalent to the Intermediate Examination of an Indian University, any examination conducted by any other authority.

(*5*) Notwithstanding anything contained in this Act or the Ordinances, any student of the Muhammadan Anglo-Oriental College, Aligarh, who immediately before the commencement of this Act was studying for any examination of the Allahabad University higher than the Intermediate Examination shall be permitted to complete his course in preparation thereof. The University shall provide for such students instruction in accordance with the prospectus of studies of the Allahabad University and, notwithstanding anything contained in the [1]Indian University Act, 1904, any such students may be admitted to the examinations of that University during a period not exceeding four years from the commencement of this Act. VIII of 1904.

Examinations.

33. (*1*) All arrangements for the conduct of examinations shall be made, and all examiners shall be appointed by the Academic Council in such manner as may be prescribed by the Ordinances.

(*2*) At least one examiner who is not a member or a teacher of the University shall be appointed for each subject in a Department of Studies forming part of the course which is required for a University degree.

(*3*) The Academic Council shall appoint examination committees, consisting of members of its own body or of other persons or of both, as it thinks fit, to moderate examination questions, to prepare the results of the examinations and to report such results to the Executive Council for publication.

Annual Report and Accounts.

Annual Report.

34. The annual report of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Court on or before such date as may be prescribed by the Statutes, and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit.

[1] General Acts, Vol. VI.

Annual accounts.

35. (*1*) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Executive Council, and shall once at least every year and at intervals of not more than fifteen months be audited by auditors appointed by the Visiting Board.

(*2*) The annual accounts when audited shall be published in the Gazette of India and in the local official Gazette, and a copy of the accounts, together with the auditor's report, shall be submitted through the Visiting Board to the Lord Rector.

(*3*) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting, and the Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit.

Supplementary Provisions.

Conditions of service of officers and teachers.

36. (*1*) Every salaried officer and teacher of the University shall be appointed on a written contract, which shall be lodged with the University and a copy of which shall be furnished to the officer or teacher concerned.

(*2*) Any dispute arising out of a contract between the University and any of its officers or teachers shall, at the request of the officer or teacher concerned, be referred to a tribunal of arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned and an umpire appointed by the Visiting Board. The decision of the tribunal shall be final, and no suit shall lie in any Civil Court in respect of the matters decided by the tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the [1]Indian Arbitration Act, 1899, and all the provisions of that Act, with the exception of section 2 thereof, shall apply accordingly.

IX of 1899.

Provident and pension funds.

37. (*1*) The University shall constitute for the benefit of its officers, teachers and servants such provident and pension funds as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(*2*) Where such provident or pension fund has been so constituted, the Governor General in Council may declare that the provisions of the [2]Provident Funds Act, 1897, shall apply to such fund, as if it were a Government provident fund.

IX of 1897.

Filling of casual vacancies.

38. (*1*) Subject to any provision in this Act and in the Statutes, the Executive Council shall appoint persons to fill casual vacancies in the offices of Vice-Chancellor and Pro-Vice-Chancellor. Persons so appointed shall hold office till the next meeting of the Court.

[1] General Acts, Vol. V.
[2] General Acts, Vol. IV.

(*2*) Subject to the provisions of sub-section (*3*) of section 18, other casual vacancies in any office of any authority shall be filled up by the authority which has power to appoint to the office or authority: provided that when the Court is the appointing authority the casual vacancy shall be filled by the Executive Council, and the person so appointed shall hold office till the next meeting of the Court.

Proceedings of University authorities not invalidated by vacancies.

39. No act or proceeding of any authority of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

Power to remove difficulties.

40. (*1*) If any difficulty arises with respect to the establishment of the University or any authority of the University or in connection with the first meeting of any authority of the University, the Governor General in Council may by order make any appointment or do anything which appears to him necessary or expedient for the proper establishment of the University or any authority thereof or for the first meeting of any authority of the University.

(*2*) Any such order may modify the provisions of this Act and the Statutes so far as may appear to the Governor General in Council to be necessary or expedient for carrying the order into effect.

THE SCHEDULE.

FIRST STATUTES OF THE UNIVERSITY.

(*See section 28.*)

Rectors.

1. (*1*) The following persons shall be Rectors of the University, namely:—

(*i*) all Heads of Local Governments;

(*ii*) such Rulers of States in India, Princes, and other persons as the Lord Rector may, of his own motion or on the recommendation of the Court, appoint.

(*2*) The Chancellor may also, on the recommendation of the Academic Council, appoint persons of eminent position or attainments to be Rectors.

The Vice-Chancellor.

2. The Vice-Chancellor shall hold office for three years and shall be eligible for re-election.

Powers of the Vice-Chancellor.

3. (*1*) The Vice-Chancellor shall take rank in the University next to the Chancellor and the Pro-Chancellor, and shall be *ex-officio* Chairman of the Executive Council and the Academic Council and, in the absence of the Chancellor and the Pro-Chancellor, shall preside at Convocations of the University held for conferring degrees and at meetings of the Court.

(*2*) It shall be the duty of the Vice-Chancellor to see that the Act, the Statutes, the Ordinances and the Regulations are duly observed, and he shall have all powers necessary for that purpose.

(*3*) He shall have the power of convening meetings of the Court and the Executive Council and shall perform all such acts as may be necessary to carry out or further the provisions of the Act, the Statutes and the Ordinances.

(*4*) If any emergency arises in which in his opinion immediate action should be taken, he shall take such action as he deems necessary and report the fact to the authority which in the ordinary course would have dealt with the matter.

(*5*) He shall be the sole medium of communication between the University and the following authorities, namely, the Governor General in Council, the Lord Rector and the Visiting Board.

The Pro-Vice-Chancellor.

4. (*1*) The Pro-Vice-Chancellor shall be the principal academic officer of the University and shall be a whole-time salaried officer thereof.

(*2*) He shall be an *ex-officio* member of the Executive Council and the Academic Council and, in the absence of the Vice-Chancellor, shall preside at meetings of the Academic Council. He shall also have power to convene meetings of the Academic Council.

(*3*) He shall hold office for five years and be eligible for re-appointment.

The Treasurer.

5. (*1*) The Treasurer shall be appointed by the Court on such conditions and for such period as the Court may think fit.

(*2*) He shall exercise general supervision over the funds of the University and advise in regard to its financial policy.

(*3*) He shall be an *ex-officio* member of the Executive Council and shall, subject to the control of the Executive Council, manage the property and investments of the University. He shall be responsible for the presentation of the annual estimates and accounts.

(*4*) Subject to the powers of the Executive Council, he shall be responsible for seeing that all moneys are expended on the purposes for which they are granted or allotted.

(*5*) He shall exercise such other powers as may be prescribed by the Ordinances.

The Registrar.]

6. (*1*) The Registrar shall be a whole-time paid officer of the University appointed by the Court.

(*2*) He shall hold office for five years and shall be eligible for re-appointment.

(*3*) The Registrar shall—

(*a*) be the custodian of the records, the seal and such other property of the University as is committed to his charge;

(*b*) keep and maintain the register of registered graduates;

(*c*) attend and act as Secretary at meetings of the Executive and Academic Councils and, if deemed necessary, of the Departments of Studies, and any committees appointed by such bodies, and to keep the minutes thereof;

(*d*) under the superintendence of the Academic Council and the examination committees arrange for and superintend the examinations of the University; and

(*e*) perform such other duties as may from time to time be prescribed by the Ordinances and Regulations.

The Proctor and Librarian.

7. (*1*) The following officers shall be appointed by the Executive Council on the recommendation of the Academic Council:—

(*i*) A Proctor for the maintenance of the discipline of the students of the University;

(*ii*) A Librarian for the University Library.

(*2*) The Academic Council may delegate to the Proctor such of its powers as regards discipline as it thinks fit.

The Court.

8. The Court shall, subject to provisions hereinafter contained, consist of the following members:—

Class I.—Ex-Officio Members.

The Chancellor, the Pro-Chancellor and the Vice-Chancellor for the time being shall be *Ex-Officio* Members.

Class II.—Foundation Members.

The persons named in the Annexure to this Schedule shall be Foundation Members.

Class III.—Life Members.

Every person who has contributed to the Muhammadan Anglo-Oriental College, Aligarh, the Muslim University Association or the Muslim University Foundation Committee a donation of one lakh of rupees or upwards or has transferred property of like value to any of the said institutions and all persons who shall hereafter make such a donation or transfer shall be a Life Member.

Class IV.—Ordinary Members.

Ordinary Members shall be persons elected or appointed as follows:—

(1) Ten persons to represent such States in India as have contributed or shall contribute one lakh of rupees and upwards, together with a permanent recurring grant, to or for the purposes of the University, who shall be nominated by such States.

(2) Sixty persons to be elected by persons who have made or shall make donations of five hundred rupees and upwards to or for the purposes of the University.

(3) Forty persons to be elected by the registered graduates of the University, of whom not less than twenty shall for the first fifteen years after the commencement of this Act be persons who have been educated at the Muhammadan Anglo-Oriental College, Aligarh, and are members of an Association recognised for that purpose by the Court.

Persons to be eligible for election under this provision must be registered graduates of not less than ten years' standing.

(4) Twenty persons to be elected by the Central Standing Committee of the All-India Muhammadan Educational Conference from among its own members, not less than ten of whom shall be persons who have been engaged for at least five years in teaching:

Provided that no person shall be qualified to vote in more than one electorate under any of the three last preceding clauses.

(5) Ten persons to be nominated by the Chancellor.

(6) Thirty-three persons to be elected by the Court, namely:—

(*i*) nine persons to represent Islamia Colleges and other Muslim educational institutions not under the control of the University;

(*ii*) fifteen persons engaged in the learned professions; and

(*iii*) nine persons learned in the Muslim religion and Oriental studies; and

(7) Fifteen persons to be elected by the Academic Council from among its own members.

9. (*1*) The members provided for in Classes I, II, III and clause (1) of Class IV shall be the members of the First Court. The First Court.

(*2*) At the first meeting of the Court, which shall be held as soon as may be after the commencement of this Act, the thirty-three persons specified in clause (6) of class IV shall be elected.

(*3*) The Academic Council shall elect its representatives at its first meeting.

(*4*) Any member of the Court may be removed by a resolution, passed by a majority consisting of not less than two-thirds of the members of the Court to the effect that—

(*i*) he has become incapable of performing his duties, or

(*ii*) he has acted against the interests of the University, or

(*iii*) he has been convicted by a Court of law of what, in the opinion of the Court, is a serious offence.

Retirement of Foundation Members.

10. (*1*) Every Foundation Member of the Court shall, unless his office is previously vacated, hold office for five years from the commencement of this Act.

(*2*) At the end of the fifth, sixth, seventh and eighth years after the commencement of this Act, as nearly as may be, one-fifth in number of the total number of the Foundation Members remaining at the end of the fifth year, shall in each of these years resign, and at the end of the ninth year all the Foundation Members then remaining shall resign.

(*3*) The order in which the Foundation Members shall resign shall be the reverse order to which their names appear in the Annexure to this Schedule.

(*4*) A Foundation Member who is required to retire under the provisions of this clause shall be eligible for election as an Ordinary Member in a vacancy occurring after his retirement.

Election of ordinary members.

11. (*1*) After the fifth and subsequent annual meetings up to the ninth, there shall be annually appointed in accordance with the provisions of clauses (2) to (5) of Class IV the following number of Ordinary Members, namely:—

In clause (2)	12
In clause (3)	8
In clause (4)	4
In clause (5)	2

(*2*) When an electoral body entitled to elect a member or members fails to do so within the time prescribed, the Court may elect any qualified person or persons of the class from which such electoral body was entitled to elect to be an Ordinary Member.

General provisions as to Members of the Court.

12. (*1*) All Ordinary Members shall hold office for five years from the date of their election.

(*2*) Any casual vacancies among the nominated or elected members shall be filled, as soon as conveniently may be, by the person or body who nominated or elected the member whose place has become vacant, and the person nominated or elected to such vacancy shall be a member for the residue of the term for which the person in whose place he is nominated or elected was a member.

(*3*) The Executive Council may, subject to the provisions of these Statutes, make rules prescribing the qualifications of the electors, the mode of election and other conditions to which the electors and the elected members shall be subject.

Meetings of the Court.

13. (*1*) The Court shall, on a date to be fixed by the Vice-Chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

(*2*) The Vice-Chancellor may, whenever he thinks fit, and shall upon requisition in writing signed by not less than thirty members of the Court, convene a special meeting of the Court.

(*3*) Twenty-five members shall form a quorum.

Powers in respect to granting and withdrawing degrees.

14. (*1*) The Court may, by resolutions passed by a majority of not less than two-thirds of the members present and voting,—

(*a*) on the recommendation of the Academic Council through the Executive Council, make proposals to the Chancellor for the conferment of honorary degrees;

(*b*) on the recommendation of the Executive Council, withdraw any ordinary degree or diploma conferred by the University; and

(*c*) with the sanction of the Chancellor, withdraw any honorary degree.

(*2*) In cases of urgency the Chancellor may, on the recommendation of the Executive Council alone, confer an honorary degree.

The Executive Council.

15. (*1*) The Executive Council shall consist of not more than thirty members.

(*2*) The Vice-Chancellor, the Pro-Vice-Chancellor, the Principal of an Intermediate College maintained by the University, who shall be selected by the Vice-Chancellor and the Treasurer, shall be *ex-officio* members of the Executive Council.

(*3*) Six other members shall be elected by the Academic Council and twenty shall be elected by the Court, of whom not less than seven shall be residents of places outside the United Provinces of Agra and Oudh.

(*4*) Elected members shall hold office for three years, provided that at the second annual meeting of the Court and at the third annual meeting of the Court six of the first members elected by it shall retire by ballot.

(*5*) Eleven members of the Council shall form a quorum.

(*6*) The Executive Council may make rules prescribing the mode of election and the conditions to which the elected members shall be subject.

Powers of the Executive Council.

16. (*1*) The Executive Council shall, subject to the control of the Court and to the Act, the Statutes and the Ordinances, administer the revenue and property of the University, regulate the finances, accounts and investments and perform all such duties and such acts as may be necessary for the business of the University.

(*2*) (*a*) In particular the Executive Council shall have power to make and vary investments, purchase, accept and sell moveable or immoveable property, enter into and carry out or cancel contracts and appoint persons to execute and register the same;

(*b*) It shall maintain the buildings, premises, furniture and apparatus needed for the work of the University;

(*c*) It shall grant leave to officers, teachers and servants in accordance with the Ordinances and Regulations and, subject to the provisions of section 36 of the Act, deal with any grievances of any such officers, teachers or servants;

(*d*) It shall maintain a register of donors of the University;

(*e*) It shall maintain the University press;

(*f*) It shall on the recommendation of the Academic Council prescribe the fees and charges payable by students;

(*g*) It shall fix the fees and allowances of examiners, moderators and other persons engaged in the University examinations; and

(*h*) It shall be the managing body of any Intermediate college or school maintained by the University, and shall supervise any Intermediate colleges and schools admitted to privileges by the University.

The Academic Council.

17. (*1*) The Academic Council shall consist of the following persons, namely:—

(*i*) The Vice-Chancellor and Pro-Vice-Chancellor;

(*ii*) The Chairman of the Departments of Studies;

(*iii*) The Librarian and the Proctor;

(*iv*) Two persons elected by the Court;

(*v*) Two persons nominated by the Visiting Board; and

(*vi*) Five persons co-opted by the other members of the Council, two of whom at least shall be Heads of Halls, two Professors or Readers, and one a person not engaged in teaching in the University.

(*2*) Eleven members of the Academic Council shall form a quorum.

(*3*) Members other than *ex-officio* members shall hold office for three years.

Powers of the Academic Council.

18. (*1*) The Academic Council shall—

(*i*) arrange and supervise the work of education in the University;

(*ii*) recommend to the Executive Council the creation and abolition of posts in the educational and tutorial staff;

(*iii*) subject to conditions imposed by any trust, fix the time, mode and terms of competition for Fellowships, Scholarships, Studentships, Medals and Prizes and award the same;

(*iv*) conduct the examinations and publish the results thereof in the University Gazette;

(*v*) have entire charge of the discipline of the students in the University;

(*vi*) publish and revise lists of prescribed and recommended books, if any, and prescribe syllabuses in consultation with the Departments of Studies;

(*vii*) appoint a library committee with such powers as may be prescribed in the Ordinances; and

(*viii*) publish the University Gazette.

(*2*) All decisions of the Academic Council as regards matters of discipline of students, syllabuses of studies and the conduct of examinations shall be final, with the exception of those which relate to the Departments of Theology whose proceedings shall be subject to the approval of the Executive Council.

Departments of Studies.

19. (*1*) There shall be Departments of Studies in the following branches of knowledge, namely:—

(*i*) English language and literature,

(*ii*) History and Political Science,

(*iii*) Economics,

(*iv*) Philosophy and Psychology,

(*v*) Physics,

(*vi*) Chemistry,

(*vii*) Mathematics and Astronomy,

(*viii*) Geography,

(*ix*) Sunni Theology,

(*x*) Shia Theology,

(*xi*) Islamic Studies,

(*xii*) Arabic language and literature,

(*xiii*) Persian,

(*xiv*) Urdu,

(*xv*) Law.

(*2*) As soon as circumstances permit, there shall also be Departments of Studies in the following branches of knowledge, namely:—

(*i*) Education,

(*ii*) Botany,

(*iii*) Zoology,

(*iv*) Agriculture,

(*v*) Medicine,

(*vi*) Commerce,

(*vii*) Technology, and

(*viii*) such other departments as the Court, on the recommendation of the Academic Council made through the Executive Council, may institute.

(*3*) Each Department of Studies shall—

(*a*) consist of the teachers in the subject with which the Department is concerned: provided that the Pro-Vice-Chancellor shall be an *ex-officio* member of each Department;

(*b*) have power to co-opt specialists not exceeding two in number, except in the case of the Department of Law, which shall co-opt four members, two of whom shall be Judges of a High Court;

(*c*) elect from among the Professors and Readers of the department its own Chairman who shall hold office for three years, but must resign if at any time he ceases to be a Professor or Reader;

(*d*) recommend to the Academic Council courses and syllabuses of studies and text-books for its subjects; and

(*e*) make recommendations to the Academic Council in respect of Fellowships, Scholarships and Studentships, Medals and Prizes in the subject with which it is concerned.

(*4*) The Academic Council may assign teachers of cognate subjects to a Department of Study.

Appointments.

20. Subject to the general control of the Court, all appointments on the teaching staff shall be made by the Executive Council from a list of persons recommended as suitable therefor by a Committee of Appointment consisting of the Pro-Vice-Chancellor, the Chairman of the Department of Studies concerned and three other persons appointed by the Academic Council. Other appointments, unless otherwise provided for, shall be made by the Executive Council.

Register of graduates.

21. The register of registered graduates shall, subject to conditions prescribed by the Ordinances, contain the names of—

(1) the graduates of the University; and

(2) graduates of other Universities who have been educated for at least two years at the Muhammadan Anglo-Oriental College, Aligarh,

separately entered therein.

Convocation.

22. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

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23. Any authority of the University may appoint such and so many standing or special committees as to it may seem fit, and may appoint to them persons who are not members of such authority. Such committees may deal with any subject delegated to them, subject to subsequent confirmation by the authority appointing them.

24. Where no provision is made for a president or chairman to preside over a meeting, authority or committee or when the president or chairman so provided for is absent, the members present shall elect one of their number to preside at the meeting. Acting President of meetings.

25. Any member of the Court, the Executive Council, the Academic Council or any other University authority or committee may resign by letter addressed to the Vice-Chancellor. Resignations.

26. Every officer of the University and every member of any authority whose term of office or membership has expired shall be eligible for re-appointment or re-election, as the case may be. Re-election.

THE ANNEXURE.

(*See section 8 of the First Statutes.*)

FOUNDATION MEMBERS OF THE FIRST COURT.

1. The Hon'ble Nawab Mumtaz-ud-daula Sir Muhammad Faiyaz Ali Khan, K.C.I.E., K.C.V.O., C.S.I., C.B.E., of Pahasu, Bulandshahr.
2. Saiyid Muhammad Mir, Esq., Pleader, Delhi.
3. The Hon'ble Nawab Muhammad Muzammil-ullah Khan, Khan Bahadur, O.B.E., of Bhikampur, Aligarh.
4. The Hon'ble Nawab Muhammad Abdul Majid, C.I.E., Barrister-at-Law, Allahabad.
5. The Hon'ble Saiyid Mahomed Ali, Retired District and Sessions Judge, Aligarh.
6. Shams-ul-ulama Saiyid Amjad Ali, M.A., Sadiqpur, Patna.
7. Nawab Imadul-Mulk Bahadur, Saiyid Husain Bilgrami, B.A., C.S.I., Retired Director of Public Instruction, His Exalted Highness the Nizam's Government, Hyderabad State.
8. Maulvi Nizam-ud-din Hasan, B.A., B.L., Advocate, Lucknow.
9. Haji Muhammad Moosa Khan, Dataoli, Aligarh.
10. Sahibzada Aftab Ahmad Khan, Barrister-at-Law, India Office, London.
11. Muhammad Alaul Hasan, Esq., B.A., Deputy Collector, Bijnor.
12. Khwaja Sajjad Husain, Esq., B.A., Panipat, Karnal.
13. Nawabzada Saiyid Ashraf-ud-din Ahmad, Khan Bahadur, Barh, Patna.
14. Sahibzada Sultan Ahmad Khan, M.A., LL.M., Barrister-at-Law, Appeals Member, Gwalior State.

15. The Hon'ble Khwaja Yusuf Shah, Khan Bahadur, C.I.E., Amritsar.
16. Nasrullah Khan, Esq., Barrister-at-Law, Surat.
17. Saiyid Zain-ud-din, Khan Bahadur, M.A., Officiating Collector, Mainpuri.
18. Khan Muhammad Aslam Hayat Khan, Esq., Extra Assistant Commissioner, Punjab.
19. Munshi Niaz Muhammad Khan, B.A., Pleader, Jullundur.
20. Maulvi Nazir Ahmad, B.A., LL.B., Jammu.
21. The Hon'ble Mr. Justice Muhammad Rafiq, Barrister-at-Law, High Court, Allahabad.
22. Maulvi Muhammad Badrul Hasan, LL.B., Retired Sub-Judge, Aligarh.
23. Maulvi Muhammad Habibur-Rahman Khan Sharwani, Hyderabad State.
24. Nawab Fateh Ali Khan Qizilbash, Khan Bahadur, C.I.E., Lahore.
25. Saiyid Ahmed Ali, Esq., M.A., Kamthana, Ujjain.
26. Saiyid Muhammad Baqar Rizvi, Rampur State.
27. Muhammad Abdus Salam Khan, Esq., Rampur State.
28. Hakim Hafiz Muhammad Ajmal Khan, Delhi.
29. Qazi Aziz-ud-din Ahmad, Khan Bahadur, O.B.E., I.S.O., Judicial Secretary, Dholpore State.
30. Shaikh Abdul Qadir, Khan Bahadur, B.A., Barrister-at-Law, Lyallpur.
31. Shaikh Abdullah, Esq., B.A., LL.B., Vakil, Aligarh.
32. The Hon'ble Raja Sir Muhammad Tassaduq Rasul Khan, K.C.S.I., of Jahangirabad, Bara-Banki.
33. The Hon'ble Raja Sir Muhammad Ali Muhammad, Khan Bahadur, K.C.I.E., of Mahmudabad, Lucknow.
34. Mirza Shujaat Ali Beg, Khan Bahadur, Calcutta.
35. Ghulam Muhammad Munshi, Esq., Barrister-at-Law, Rajkote.
36. Shaikh Wahid-ud-din, Khan Bahadur, Meerut.
37. Maulvi Abdulla Jan, Ludhiana.
38. The Hon'ble Mian Muhammad Shafi, Khan Bahadur, C.I.E., Member of the Governor General's Executive Council, Simla.
39. Saiyid Tufail Ahmad, Sub-Registrar, Aligarh.
40. Saiyid Nabi-ullah, Esq., Barrister-at-Law, Lucknow.
41. Saiyid Jafar Husain, Khan Bahadur, Lucknow.
42. Nawab Bahadur, Nawab Muhammad Abdus Samad, Khan Bahadur, of Talibnagar and Chhitari, Aligarh.

43. Maulvi Sir Rahim Bakhsh, K.C.I.E., President, Council of Regency, Bahawalpur State.
44. The Hon'ble Nawab Saiyid Nawab Ali Chaudhri, Khan Bahadur, C.I.E., Calcutta.
45. Muhammad Akbar Nazar Ali Hydari, Esq., B.A., Secretary to H. E. H. the Nizam's Government in the Judicial, Police and General Departments, Hyderabad State.
46. The Hon'ble Mr. Justice Saiyid Muhammad Abdul Raoof, Khan Bahadur, Barrister-at-Law, High Court, Lahore.
47. Razzaq Bakhsh Qadri, Esq., Barrister-at-Law, Aligarh.
48. Shaikh Ghulam Sadik, Khan Bahadur, Amritsar.
49. Yaqub Hasan, Esq., Madras.
50. Maulvi Naseer Husain Khan "Khayal," Calcutta.
51. Malik Badr-ud-din Ghulam Husain, Khan Bahadur, Nagpur.
52. Saiyid Muhammad Sharf-ud-din, Esq., Barrister-at-Law, Patna.
53. Saiyid Ali Hasan Khan, Lucknow.
54. The Hon'ble Sir Abdul Karim Abdul Shakur Jamal, Kt., C.I.E., Merchant, Burma.
55. Maulvi Muhammad Habib-ullah Khan, B.A., Deputy Collector. Aligarh.
56. Munshi Sarfaraz Khan, Sub-Registrar, Muzaffarnagar.
57. Major Nawabzada Hazi Hafiz Muhammad Obeidulla Khan, C.S.I., Commander-in-Chief, Bhopal State Forces, and Honorary A.-D.-C. to H. E. the Viceroy.
58. The Hon'ble Sir Fazulbhoy Currimbhoy Ebrahim, Kt., C.B.E., Bombay.
59. Nawab Muhammad Ahmad Said Khan, M.B.E., of Chhitari, Bulandshahr.
60. Amir Mustafa Khan, Esq., Aligarh.
61. The Hon'ble Sir Ibrahim Rahimtoola, Kt., C.I.E., Member of the Governor's Executive Council, Bombay.
62. Saiyid Hasan Imam, Esq., Barrister-at-Law, Patna.
63. Nawab Sarbuland Jang Bahadur Muhammad Hameed-ullah Khan, Barrister-at-Law (Retired Chief Justice, Hyderabad State), Allahabad.
64. Ghulam Ahmad Khan Kalami, Esq., Coromandel, Kolar Gold Fields.
65. Munshi Muhammad Israr Hasan Khan, Khan Bahadur, C.I.E., Judicial Minister, Bhopal State.
66. Honorary Captain Nawab Malik Muhammad Mubariz Khan Tiwana, C.B.E., of Shahpur.
67. Abdul Majid Khwaja, Esq., Barrister-at-Law, Patna.

68. Kasim Ali Jirajbhai, Esq., Poona.
69. Haji Muhammad Swaleh Khan of Bhikampur, Aligarh.
70. Saiyid Ross Masood, Esq., B.A., Director of Public Instruc Hyderabad State.
71. Ibni Ahmad, Esq., Barrister-at-Law, Allahabad.
72. Maulvi Mohammad Ibrahim, Wazir, Khairpur State.
73. Maulvi Siraj Ahmad, M.A., Extra Assistant Commissic Saugor.
74. The Hon'ble Justice Sir Abd-ur-rahim, Kt., M.A., Barri at-Law, High Court, Madras.
75. Saiyid Wazir Hasan, B.A., LL.B., Officiating Additional J cial Commissioner, Lucknow.
76. Shaukat Ali, *Esq., Rampur State.*
77. Maulvi *Muhammad Yakoob, Pleader, Moradabad.*
78. Ashanul Haq, *Esq., Barrister-at-Law, Sialkot.*
79. The Hon'ble *Nawab Justice Sir Saiyid Shamsul Huda, K.C.I.E.,* High Court, *Calcutta.*
80. Mukhtar Ahmad Ansari, *Esq., M.D., M.S., M.R.C.S., Delhi.*
81. Muhammad Ali Jinnah, *Esq., Barrister-at-Law, Bombay.*
82. Mazhar-ul-Huq, Esq., Barrister-at-Law, Patna.
83. Maulvi Muhammad Bashir-ud-din, Khan Bahadur, Etawah.
84. The Hon'ble Saiyid Riza Ali, B.A., LL.B., Allahabad.
85. Nazir-ud-din Hasan, Esq., M.A., LL.D., Sessions Judge, Aurangabad, Hyderabad State.
86. Munshi Nisar Husain, Deputy Magistrate, Irrigation Department, Aligarh.
87. Shaikh Muhammad Wajih, Deputy Collector, Bulandshahr.
88. Zahoor Ahmad, Esq., Barrister-at-Law, Allahabad.
89. Raja Saiyid Abu Jafar, C.I.E., of Pirpur, Fyzabad.
90. Sir Saiyid Ali Imam, K.C.S.I., Hyderabad State.
91. The Hon'ble Khan Sir Zulfikar Ali Khan, Kt., C.S.I., of Maler Kotla, Lahore.
92. Dr. Said-uz-Zafar Khan, M.B., Ch.B., D.T.M., Professor, King George's Medical College, Lucknow.
93. Munshi Muhammad Akram Khan, B.A., Deputy Superintendent of Police, Gorakhpur.
94. Maulvi Abdul Ahad, Khan Bahadur, Delhi.
95. Hafiz Muhammad Haleem, Khan Bahadur, Cawnpore.
96. Shah Munir Alam, B.A., LL.B., Sub-Judge, Gorakhpur.
97. Mumtaz Husain, Esq., Barrister-at-Law, Lucknow.
98. Shamshad Ahmad Khan, Esq., Barrister-at-Law, Aligarh.

99. Shaikh Muhammad Musanna, Khan Sahib, B.A., Deputy Collector, Benares.
100. Qazi Makhdum Husain, Retired Deputy Collector, Saharanpur.
101. Muhammad Ismail Khan, Esq., Barrister-at-Law, Meerut.
102. The Hon'ble Saiyid Al-i-Nabi, Khan Bahadur, B.A., LL.B., Agra.
103. Tassaduq Ahmad Khan Sharwani, Esq., Barrister-at-Law, Aligarh.
104. Abul Hasan, Esq., B.A., Inspector of Schools, Jhansi.
105. Nawabzada Haji Muhammad Hamidullah Khan, B.A., Chief Secretary to H. H. the Ruler of Bhopal.
106. Munshi Abdul Hamid Khan, Khan Bahadur, Deputy Collector, Bara-Banki.
107. Sir Sahibzada Nawab Abdul Qaiyum, Khan Bahadur, K.C.I.E., Peshawar.
108. Nawab Nazir Jang Bahadur Mirza Nazir Beg, Military Secretary, H. E. H. the Nizam's Government, Hyderabad State.
109. Maulvi Zafar Umar, B.A., Deputy Superintendent of Police, Agra.
110. The Hon'ble Mian Fazl-i-Hussain, Khan Bahadur, M.A., Barrister-at-Law, Lahore.
111. Saiyid Sajjad Haidar, B.A., Deputy Collector, Sultanpur.
112. Mirza Zulqadr Jang Bahadur, M.A. (Cantab.), Barrister-at-Law, Lucknow.
113. Dr. Saiyid Mahmud, Barrister-at-Law, Patna.
114. The Hon'ble Maulvi Abul Kasim Fazl-ul-Haq, M.A., B.L., Vakil, Calcutta.
115. Maulvi Abdul Haq, B.A., Aurangabad.
116. Qassim Hussain, Esq., 2nd Tallaqdar, Division Bedar, Hyderabad State.
117. Mauzzam Ali Khan, Esq., Barrister-at-Law, Moradabad.
118. Agha Muhammad Safdar, B.A., LL.B., Vakil, Sialkot.
119. Mian Haq Nawaz, B.A., LL.B., Lahore.
120. Chaudhri Khushi Muhammad Khan, Revenue Member, Kashmere State.
121. Babu Nizam-ud-din, Amritsar.
122. Said Muhammad Khan, Esq., Khurja, Bulandshahr.
123. Munshi Muhammad Wajid Ali Khan, Khan Sahib, Judicial Secretary, Bhopal State.
124. Mahomed Ali, Esq., Rampur State.

ACT No. XLII OF 1920.[1]

[*16th September, 1920.*]

An Act further to amend the Indian Companies Act, 1913.

WHEREAS it is expedient further to amend the [2]Indian Companies Act, 1913; It is hereby enacted as follows:— VII of 1913.

Short title. **1.** This Act may be called the Indian Companies (Amendment) Act, 1920.

Amendment of section 91B of Act VII of 1913. **2.** To section 91B of the [2]Indian Companies Act, 1913, the following sub-section shall be added, namely:— VII of 1913.

"(*3*) This section shall not apply to a private Company."

ACT No. XLIII OF 1920.[3]

[*16th September, 1920.*]

An Act further to amend the Presidency Banks Act, 1876.

WHEREAS it is expedient further to amend the [4]Presidency Banks Act, 1876; It is hereby enacted as follows:— XI of 1876.

Short title. **1.** This Act may be called the Presidency Banks (Amendment) Act, 1920.

Amendment of section 36 of Act XI of 1876. **2.** In clause (1) of paragraph (*a*) of section 36 of the [4]Presidency Banks Act, 1876, after the words "the Government of India" the words "the Government of Bombay" shall be inserted. XI of 1876.

ACT No. XLVI OF 1920.[5]

[*17th September, 1920.*]

An Act to enable Cutchi Memons to be governed in matters of succession and inheritance by the Muhammadan law.

WHEREAS it is expedient to enable those Cutchi Memons who so desire to be governed in matters of succession and inheritance by the Muhammadan law; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Cutchi Memons Act, 1920.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 268; and for Proceedings in Council, *see ibid;* 1920, Pt. VI, pp. 1141 and 1270.

[2] General Acts, Vol. VII.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 269, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1143 and 1270. The Act has been virtually repealed by the Imperial Bank of India Act, 1920 (XLVII of 1920).

[4] General Acts, Vol. II.

[5] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 38; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 275, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 139, 1117 and 1288.

Power to make a declaration.

2. [1][(*1*)] [2][Any person who satisfies the prescribed authority—

(*a*) that he is a Cutchi Memon and is the person whom he represents himself to be;

(*b*) that he is competent to contract within the meaning of section 11 of the [3]Indian Contract Act, 1872; and

IX of 1872.

(*c*) that he is resident in British India,]

may by declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of this Act, and thereafter the declarant and all his minor children and their descendants shall in matters of succession and inheritance be governed by the Muhammadan law.

[4][(*2*) Where the prescribed authority refuses to accept a declaration under sub-section (*1*), the person desiring to make the same may appeal to such officer as the Local Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.]

Rule-making power of Local Governments.

3. [5][(*1*) The Local Government may make rules to carry into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(*a*) for prescribing the authority before whom and the form in which declarations under this Act shall be made;

(*b*) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act; and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied.]

[6][(*3*)] Rules made under the provisions of this section shall be published in the local official Gazette and shall thereupon have effect as if enacted in this Act.

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[1] Section 2 was renumbered section 2 (*1*) by s. 2 of the Cutchi Memons (Amendment) Act, 1923 (XXXIV of 1923), *infra*.

[2] These words and figures were substituted for the words "Any Cutchi Memon who—
(*a*) has attained the age of Majority, and
(*b*) is resident in British India,"
by *ibid*.

[3] General Acts, Vol. II.

[4] This sub-section was added by s. 2 of the Cutchi Memons (Amendment) Act, 1923 (XXXIV of 1923), *infra*.

[5] These sub-sections were substituted for the original sub-section (*1*) by s. 3, *ibid*.

[6] Sub-section (*2*) was renumbered sub-section (*3*) by s. 3 of the Cutchi Memons (Amendment) Act, 1923 (XXXIV of 1923), *infra*.

THE IMPERIAL BANK OF INDIA ACT, 1920.

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ACT No. XLVII OF 1920.[1]

[*19th September, 1920.*]

An Act to constitute an Imperial Bank of India and for other purposes.

WHEREAS it is expedient to constitute an Imperial Bank of India and to transfer to the Bank so constituted the undertaking of each of the Presidency Banks and to dissolve those Banks and to make provision for the regulation and management of the Imperial Bank of India; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Imperial Bank of India Act, 1920.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "appointed day" means such day as the Governor General in Council may appoint for the commencement of this Act;

(*b*) "the Bank of Bengal," "the Bank of Madras" and "the Bank of Bombay" mean, respectively, those Banks as constituted by the [3]Presidency Banks Act, 1876; XI of 1876.

(*c*) "dividend" includes bonus;

(*d*) "general meeting" means the annual meeting of the shareholders of the Bank;

(*e*) "goods" includes also bullion, wares and merchandise;

(*f*) "local meeting" means the annual meeting of the shareholders whose names are registered in a branch register;

(*g*) "meeting" includes an adjourned holding of a meeting;

(*h*) "prescribed" means prescribed by bye-laws made under this Act;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 74; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 184, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 491, 738, 1003 and 1164.

[2] This Act was brought into force on the 27th January, 1921, *see* Gazette of India, 1920, Pt. I, p. 2059.

[3] General Acts, Vol. II.

(*i*) "Presidency Banks" means the Bank of Bengal, the Bank of Madras and the Bank of Bombay as constituted by the XI of 1876. [1]Presidency Banks Act, 1876, and a "Presidency Bank" means any one of these Banks;

(*j*) "special local meeting" means a meeting of the shareholders whose names are registered in a branch register, convened for the transaction of some particular business specified in the notice convening the meeting;

(*k*) "special local resolution" means a resolution passed at a special local meeting;

(*l*) "special meeting" means a meeting of shareholders convened for the transaction of some particular business specified in the notice convening the meeting; and

(*m*) "special resolution" means a resolution passed at a special meeting.

CHAPTER I.

Establishment and Incorporation of the Imperial Bank of India.

Establishment of the Imperial Bank.

3. (*1*) A Bank to be called the Imperial Bank of India and in this Act referred to as "the Bank" shall be constituted for the purpose of taking over the undertakings of the Presidency Banks and to carry on the business of banking in accordance with the provisions of this Act.

(*2*) Every person who, immediately before the appointed day, was registered as a shareholder or as a holder of stock in any of the Presidency Banks, together with such other persons as may from time to time become shareholders in the Bank in accordance with the provisions of this Act, shall, as long as they are shareholders in the Bank, constitute a body corporate with perpetual succession and a common seal under the name of the Imperial Bank of India and shall sue and be sued in that name.

(*3*) Subject to the provisions of this Act, the capital of the Bank shall consist of one hundred and twelve millions and five hundred thousand rupees divided into shares of five hundred rupees each.

(*4*) The liability of the shareholders of the Bank shall be limited to the amount not fully paid up on their shares.

CHAPTER II.

Transfer of the undertakings of Presidency Banks to the Imperial Bank.

Transfer of assets and liabilities.

4. (*1*) Subject to the provisions of this Act, as from the appointed day, the undertakings of each of the Presidency Banks shall be transferred to and shall vest in the Bank.

[1] General Acts, Vol. II.

(*2*) The undertaking of a Presidency Bank shall be deemed to include all rights, powers, authorities and privileges and all property, moveable or immoveable, including cash balances, reserve funds, investments and all other interests and rights in or arising out of such property as may be in the possession of that Bank immediately before the appointed day, and all books, accounts and documents relating thereto, and shall also be deemed to include all debts, liabilities and obligations of whatever kind then existing of that Bank.

(*3*) If, on the appointed day, any suit, appeal or legal proceeding of whatever nature is pending by or against any Presidency Bank, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Bank of the undertaking of such Presidency Bank or of anything in this Act, but the suit, appeal or proceeding may be continued, prosecuted and enforced by or against the Bank.

(*4*) All contracts, deeds, bonds, agreements and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which any Presidency Bank is a party shall be of as full force and effect against or in favour of the Bank, as the case may be, and may be enforced as fully and effectually as if instead of the Presidency Bank the Bank had been a party thereto.

Terms of transfer as regards shareholders in the Presidency Banks.

5. (*1*) The name of every person who immediately before the appointed day was registered as a shareholder in any of the Presidency Banks shall be registered in accordance with the provisions of this Act hereinafter appearing as holding the same number of shares in the Bank as stood in his name in the register of such Presidency Bank;

Provided that, for the purposes of this section, two half-shares standing in the name of any such person in the register of any Presidency Bank shall be taken as the equivalent of one share, and odd half-shares shall be dealt with as hereinafter provided.

(*2*) The name of every person who immediately before the appointed day was registered as a holder of stock in any of the Presidency Banks shall be registered in accordance with the provisions of this Act hereinafter appearing as holding one share in the Bank for every Rupees five hundred of stock of which he was the registered holder in such Presidency Bank, and odd amounts of stock not amounting to Rupees five hundred shall be dealt with as hereinafter provided.

(*3*) The Bank shall issue fractional certificates to the holders of odd half-shares and of odd amounts of stock, not amounting to Rupees five hundred, certifying, as the case may be, that the holder is entitled to one-half of one fully paid share or such fraction of a share as the odd amount of stock is of Rupees five hundred.

(*4*) Holders of fractional certificates shall, if resident in India, within three months and, in any other case, within six months from the date of the certificate either—

(*i*) surrender their fractional certificates with other similar fractional certificates representing in all one fully paid share, in which case the surrenderor shall be entitled to be registered as a shareholder and to have a fresh certificate for a fully paid share in the Bank issued to him and be entitled to an allotment of new shares in the same way as if he had been the holder of one fully paid share, or

(*ii*) at their option surrender the fractional certificates to the Bank, in which case the Bank shall be entitled to sell the shares represented by the fractions so surrendered from time to time in such manner as the Bank deems expedient, and the aggregate net sale proceeds realized by such sale or sales shall be divided proportionately and paid by the Bank to the holders of fractional certificates for whose account the shares may have been so sold.

(*5*) Every shareholder of the Bank whose name has been registered in accordance with the provisions of this section shall be entitled, in respect of every share of which he is so registered as the holder, to an allotment to himself or to his nominee (provided that such nominee is approved by the Bank) of two shares in the Bank with the sum of Rupees one hundred and twenty-five credited as paid up on payment in respect of each share, in the case of a former shareholder or stockholder of the Bank of Bengal or the Bank of Bombay, of Rupees one hundred and twenty-five, and of the Bank of Madras of Rupees two hundred and twenty-five.

(*6*) The Bank shall cause notice to be published in the Gazette of India and in two daily papers in each Presidency, and shall also send by post to every person whose name immediately before the appointed day was entered in the register of shareholders or stockholders of any of the Presidency Banks, a notice giving particulars of the terms hereinbefore set out as to the allotment of new shares and the surrender of fractional certificates, and as to the manner and form in which application for the allotment of new shares and the surrender of fractional certificates is to be made.

(*7*) If within a period of three months from the date of publication in the Gazette of India of the notice referred to in sub-section (*6*), any shareholder has not made an application for the allotment of new shares to which he is entitled, the Bank may offer such shares for public subscription and allot them to any person applying therefor:

Provided that the Bank in the case of shareholders whose addresses are out of British India may, either generally or in any particular

instance, fix an extended period for the admission of applications, but in no case shall that period be later than six months from the date of the publication of the notice in the Gazette of India.

Existing officers and servants of Presidency Banks and existing Provident Funds.

6. (*1*) Subject to the provisions of this Act, every officer and servant employed immediately before the appointed day by a Presidency Bank shall from the appointed day become an officer or servant of the Bank, and shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension or gratuity as he would have held the same under the Presidency Bank if this Act had not been passed.

(*2*) Any person who, on the appointed day, has been granted or is in receipt of a pension or other superannuation or compassionate allowance from a Presidency Bank shall be entitled to be paid by, and to receive from, the Bank the same pension or allowance so long as he observes the conditions on which the pension or allowance was granted. Any question whether he has so observed such conditions shall, in case of any difference arising, be determined by the Governor General in Council.

(*3*) For the directors and officers of the Banks of Bombay and Madras who are at the commencement of this Act the respective trustees of the following Funds, that is to say,—

(*a*) the Bank of Bombay Officers' Pension and Guarantee Fund, and

(*b*) the Bank of Madras Pension and Gratuity Fund, and the Bank of Madras Officers' Provident and Mutual Guarantee Fund,

there shall be substituted as trustees of those Funds, respectively, the members for the time being and the corresponding officers of the Local Boards of the Bank at Bombay and Madras; and if any doubt arises as to who are the corresponding officers to the officers who are trustees at the commencement of this Act, the decision of the Central Board shall be final.

Dissolution of Presidency Banks.

7. As from the appointed day the Presidency Banks shall be dissolved, and thereafter no person shall make, assert or take any claims, demands or proceedings against any of the said Banks or against a director or officer thereof, in his capacity as such director or officer, except in so far as may be necessary for enforcing the provisions of this Act.

CHAPTER III.

Business of the Bank.

Business which Bank may transact.

8. Subject to the provisions of this Act, the business which the Bank is authorised to carry on and transact shall be the several kinds of

business specified in Schedule I, subject to the limitations therein mentioned.

Business of London office.

9. Notwithstanding anything contained in Schedule I, the Bank shall not, at its London office, open cash credits or keep cash accounts for or receive deposits from any person who is not, or has not been, within the three years last preceding, a customer of the Bank or of any of the Presidency Banks at any of its or their branches in India or Ceylon.

Bank may do Government business.

10. (*1*) It shall also be lawful for the Bank under any agreement with the Secretary of State for India in Council—

(*i*) to act as banker for, and to pay, receive, collect and remit money, bullion and securities on behalf of the Government;

(*ii*) to undertake and transact any other business which the Government may from time to time entrust to the Bank.

(*2*) Every such agreement shall provide—

(*a*) that the Governor General in Council shall have power to issue instructions to the Bank in respect of any matter which, in his opinion, vitally affects his financial policy or the safety of Government balances and that, in the event of the Bank disregarding such instructions, the Governor General in Council may declare such agreement to be terminated; and

(*b*) that within five years from the commencement of this Act, the Bank shall establish and maintain not less than one hundred new branches, of which at least one-fourth shall be established at such places as the Governor General in Council may direct.

Acquisition of business premises.

11. For the purpose of providing buildings and places in and at which to carry on and manage the business of the Bank, and proper residences for its officers and servants, the Bank may—

(*a*) acquire any interest in immoveable property, and

(*b*) sell, buy, re-sell, exchange, let, furnish, repair, insure against fire and other risks or deal with all or any part of the same as it may consider most conducive to the interests of the Bank.

Establishment of branches and agencies.

12. Subject to the provisions of this Act, the Bank may—

(*a*) maintain, as branches or agencies of the Bank, any branches or agencies of the Presidency Banks which were in existence immediately before the appointed day, and may establish branches or agencies at such places as it deems advantageous for the interests of the Bank, and

(*b*) discontinue any branch or agency maintained or established under this section.

Power of Bank to take over business of certain other Banks and for that purpose to increase its capital.

13. (*1*) With the sanction of the Governor General in Council, the Bank may enter into negotiations for and purchase and take over the business, including the capital, assets and liabilities, of any banking company carrying on business in India of which the capital is divided into shares, and may pay the consideration for such purchase either in cash or by the allotment of shares in the capital of the Bank, or partly in one and partly in the other of these ways, and may (subject to the provisions of this Act relating to the increase of capital) for the purpose of any such allotment of shares, increase the capital of the Bank by the issue of such number of shares as may be determined on by the Bank.

(*2*) Any business so purchased shall after the purchase be carried on by the Bank subject to the provisions of this Act.

Explanation.—For the purposes of this section "banking company" means any company formed for the purpose of carrying on the business of banking and registered under the [1]Indian Companies Act, 1913, or the law relating to companies for the time being in force in British India. VII of 1913.

CHAPTER IV.

Shares.

Nature of shares

14. (*1*) The shares of the Bank shall be moveable property.

(*2*) Each share in the Bank shall be distinguished by its appropriate number.

Certificate of share.

15. A certificate under the common or official seal of the Bank specifying the shares held by any shareholder shall be *primâ facie* evidence of the title of the shareholder to the shares therein specified.

Principal register of shareholders.

16. The Bank shall keep in one or more books a register of its shareholders (in this Act referred to as the principal register), and shall enter therein the following particulars so far as they may be available:—

(*i*) the names and addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its number, and of the amount paid on the shares of each shareholder;

(*ii*) the date on which each person is so entered as a shareholder; and

(*iii*) the date on which any person ceases to be a shareholder.

Branch registers.

17. (*1*) The Bank shall cause to be kept at the local head offices of the Bank in Calcutta, Madras and Bombay branch registers which shall

[1] General Acts, Vol. VII.

be deemed to be part of the principal register, and may do so at any other local head office which may hereafter be established under this Act.

(*2*) There shall be entered in the branch register to be kept in Calcutta the name of every person who having been registered as a shareholder or stockholder in the Bank of Bengal is entitled under the provisions of section 5 to be registered as a shareholder in the Bank, with the same particulars appended thereto as are required in the case of the principal register, and the same provision shall apply *mutatis mutandis* to the branch registers to be kept in Madras and Bombay.

(*3*) Any shareholder may apply to the Bank to have his name transferred from one branch register to another in respect of either the whole or any part of the shares standing in his name, and the Bank shall, subject to such conditions as may be prescribed, cause the registers to be amended accordingly.

(*4*) Subject to the provisions of sub-section (*3*) no transaction with respect to any share registered in one branch register shall be registered in any other branch register.

Trusts not to be entered on the register.

18. No notice of any trust, express, implied or constructive, shall be entered on the principal or any branch register or be receivable by the Bank.

Power to close register.

19. The Bank may close the principal register or any branch register for any time or times, not exceeding in the whole thirty days in each year.

Inspection of register of shareholders.

20. (*1*) The principal register of shareholders shall be kept at such places as the Bank, by notification in the Gazette of India, may appoint and, except when closed under the provisions of this Act, that register or any branch register shall during business hours (subject to such reasonable restrictions as the Bank may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any shareholder gratis.

(*2*) Any shareholder may require a copy of any such register, or of any part thereof, on prepayment therefor at the rate of six annas for every hundred words or fractional part thereof required to be copied.

Contracts.

Form of contracts.

21. (*1*) Contracts on behalf of the Bank may be made as follows:—

(*i*) any contract which, if made between private persons, would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Bank in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;

(*ii*) any contract which, if made between private persons, would by law be valid although made by parol only and not reduced to writing, may be made by parol on behalf of the Bank by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(*2*) All contracts made according to the provisions of this section shall be effectual in law, and shall bind the Bank and all other parties thereto and their legal representatives.

Regulations of Bank.

Regulations of the Bank.

22. The provisions contained in Schedule II shall be the regulations of the Bank in regard to the matters to which they relate.

CHAPTER V.

Management.

Offices of the Bank.

23. The Bank shall have local head offices in Calcutta, Madras and Bombay, and at such other places in British India as the Bank, with the previous sanction of the Governor General in Council, may determine. The Bank may also, subject to the provisions of this Act as to the business to be transacted there, establish an office in London.

Central Board.

24. The general superintendence of the affairs and business of the Bank shall be entrusted to a Central Board of Governors (hereinafter in this Act referred to as the "Central Board"), who may exercise all powers and do all such acts and things as may be exercised or done by the Bank and are not by this Act expressly directed or required to be done by the Bank in general meeting.

Local Boards.

25. Local Boards shall be established at Calcutta, Madras and Bombay, and may be established at such other places in British India as the Central Board, with the previous sanction of the Governor General in Council, may determine.

Powers of Local Boards.

26. Without prejudice to the powers conferred by section 24, the Local Boards, established at Calcutta, Madras and Bombay shall have power generally to transact all the usual business of the Bank, and shall have power as regards entries in the branch registers, respectively kept at those places, to examine and pass or refuse to pass transfers and transmissions and to approve or refuse to approve transferees of shares and to give certificates of shares.

Local Boards at Calcutta, Madras and Bombay.

Constitution of first Local Boards.

27. The several persons who were, immediately before the appointed day, respectively the directors of the Presidency Banks shall constitute

the first Local Boards of the Bank at Calcutta, Madras and Bombay, respectively, and the persons who were then president, vice-president and secretary, respectively, of the said Banks shall fill the same offices in the respective Local Boards until they vacate office in accordance with the provisions of this Act.

Central Board.

Constitution and meetings of Central Board.

28. (*1*) The Central Board shall consist of the following Governors, namely:—

(*i*) the presidents and vice-presidents of the Local Boards established by this Act;

(*ii*) the Controller of the Currency for the time being or such other officer of Government as may be nominated by the Governor General in Council to be a Governor;

(*iii*) such number of persons not exceeding four and not being officers of Government as may be nominated[1] by the Governor General in Council. Such persons shall hold office for one year but may be renominated;

(*iv*) the secretaries of the Local Boards established by this Act;

(*v*) such number of Managing Governors not exceeding two as may be [1]appointed by the Governor General in Council after consideration of the recommendations of the Central Board. Such Governors shall hold office for such period as the Governor General in Council may direct; and

(*vi*) if any Local Board is hereafter established under this Act, such number of persons to represent it as the Central Board may prescribe.

(*2*) The Governors specified in clauses (*ii*) and (*iv*) and any Governors appointed under clause (*vi*) of sub-section (*1*) shall be at liberty to attend all meetings of the Central Board and to take part in its deliberations, but shall not be entitled to vote on any question arising at any meeting.

Constitution of other Local Boards.

29. (*1*) Where the Central Board establishes any additional local head office of the Bank in British India, a Local Board shall be constituted to manage the local business of the Bank.

(*2*) The number of the members of any such Local Board shall be such number, not less than three, as may be prescribed and shall be appointed in such manner as may be prescribed.

Power to remove difficulties.

30. (*1*) If any difficulty arises with respect to the establishment of the Central Board or of a Local Board, or with respect to the

[1] For notifications making such nominations and appointments under this section, see the List of General Statutory Rules and Orders.

appointment of the first Governors or members or to the first meeting of the Central Board or of a Local Board, the Governor General in Council may by [1]order make any appointment or do anything which appears to him necessary or expedient for the proper establishment of the Board and for the appointment of the first Governors and members and for the first meeting thereof.

(*2*) Any such order may modify the provisions of this Act so far as may appear to the Governor General in Council to be necessary or expedient for carrying the order into effect.

CHAPTER VI.

Miscellaneous.

Power of Central Board to make bye-laws.

31. (*1*) The Central Board shall, with the previous approval of the Governor General in Council, make bye-laws consistent with this Act regulating the following matters, namely:—

(*a*) the maximum amounts which may be advanced or lent to, or for which bills may be discounted for, any individual or partnership, without the security mentioned in sub-clauses (*i*) to (*iv*) of clause (*a*) of Part I of Schedule I, the conditions under which advances may be made on the said security and the extent of the sums to which accounts may be overdrawn without security;

(*b*) the conditions subject to which alone advances may be made to Governors, members of Local Boards, or officers of the Bank, or the relatives of such Governors, members or officers, or to companies, firms or individuals with which or with whom such Governors, members, officers or relatives are connected as partners, directors, managers, servants, shareholders or otherwise:

Provided that the bye-laws shall provide that no advance without security shall be made to any officer of the Bank without the specific sanction of the Local Board under which he is serving;

(*c*) the particulars to be contained in the half-yearly balance-sheet; and

(*d*) any matter which by this Act is directed to be prescribed.

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[1] For notification constituting the first Central Board, *see* List of General Statutory Rules and Orders. Also *see* footnote to s. 28, *supra*.

(2) The Central Board may, with the previous approval of the Governor General in Council, make bye-laws consistent with this Act regulating the following matters or any of them, namely:—

(a) the keeping of the register and branch registers of shareholders;

(b) the distribution of business amongst the Governors and their remuneration, if any;

(c) the distribution of business amongst the members of a Local Board and their remuneration, if any;

(d) the delegation of any powers of the Central Board or of a Local Board to committees consisting of Governors or members, as the case may be;

(e) the procedure to be followed at the meetings of the Central or Local Boards or of any committees thereof;

(f) the first appointment and the appointment of members of a Local Board established under this Act;

(g) the powers of Local Boards established by or under this Act;

(h) the localities in and with respect to which such Local Boards shall exercise their powers;

(i) the books and accounts to be kept at the local head offices of the Bank;

(j) the renewal of certificates of shares which have been worn out or lost;

(k) the conduct and defence of legal proceedings and the manner of signing pleadings;

(l) the constitution and management of pension and provident funds for the officers and servants of the Bank;

(m) all matters which are by this Act permitted to be prescribed; and

(n) generally, the conduct of the business of the Bank.

References to Presidency Banks.

32. (1) The references in sections 188, 189 and 289 of the [1]Indian Companies Act, 1913, and references in any other enactment to the Presidency Banks or any of them shall be deemed to be references to the Bank.

VII of 1913.

(2) Where by any instrument power is given to invest in, to hold or to exercise any rights in regard to shares or stock in a Presidency Bank, then that power may be exercised as if the same power were given by such instrument in regard to shares in the Bank.

(3) A power of attorney in favour of a Presidency Bank or in favour of a Presidency Bank and its officers shall be deemed, as the case may

[1] General Acts, Vol. VII.

be, to be a power of attorney in favour of the Bank or of the Bank and its officers.

Amendment of section 11 (3), Act VII of 1913.

33. In section 11, sub-section (*3*) of the [1]Indian Companies Act, 1913, after the word "Royal" the words "Bank of Bengal," "Bank of Madras," "Bank of Bombay" shall be inserted. VII of 1913.

Repeals.

34. The enactments specified in Schedule III are hereby repealed.

SCHEDULE I.

(*See section 8.*)

PART I.

Business which the Bank is authorised to carry on and transact.

The Bank is authorised to carry on and transact the several kinds of business hereinafter specified, namely:—

(*a*) the advancing and lending money, and opening cash-credits upon the security of—

(*i*) stocks, funds and securities (other than immoveable property) in which a trustee is authorised to invest trust money by any Act of Parliament or by any Act of the Governor General in Council and any securities of a Local Government or the Government of Ceylon;

(*ii*) such securities issued by State-aided railways as have been notified by the Governor General in Council under section 36 of the [2]Presidency Banks Act, 1876, or may be notified by him under this Act in that behalf; XI of 1876.

(*iii*) debentures or other securities for money issued under the authority of any Act of a legislature established in British India by, or on behalf of, a district board;

(*iv*) goods which, or the documents of title to which, are deposited with, or assigned to, the Bank as security for such advances, loans or credits;

(*v*) accepted bills of exchange and promissory notes endorsed by the payees and joint and several promissory notes of two or more persons or firms unconnected with each other in general partnership; and

(*vi*) fully paid shares and debentures of companies with limited liability, or immoveable property or documents of title relating thereto as collateral security only where the original security is one of those specified in sub-clauses (*i*) to (*iv*), and if so authorised by any general or special directions of the Central Board, where the original security is of the kind specified in sub-clause (*v*):

[1] General Acts, Vol. VII.
[2] General Acts, Vol. II.

Provided that such advances and loans may be made, if the Central Board thinks fit, to the Secretary of State for India in Council, without any specific security;

(*b*) the selling and realisation of the proceeds of sale of any such promissory notes, debentures, stock-receipts, bonds, annuities, stock, shares, securities or goods which, or the documents of title to which, have been deposited with, or assigned to, the Bank as security for such advances, loans or credits, or which are held by the Bank or over which the Bank is entitled to any lien or charge in respect of any such loan or advance or credit or any debt or claim of the Bank, and which have not been redeemed in due time in accordance with the terms and conditions (if any) of such deposit or assignment;

(*c*) the advancing and lending money to Courts of Wards upon the security of estates in their charge or under their superintendence and the realisation of such advances or loans and any interest due thereon, provided that no such advance or loan shall be made without the previous sanction of the Local Government concerned, and that the period for which any such advance or loan is made shall not exceed six months;

(*d*) the drawing, accepting, discounting, buying and selling of bills of exchange and other negotiable securities payable in India, or in Ceylon; and, subject to the general or special directions of the Governor General in Council, the discounting, buying and selling of bills of exchange, payable outside India, for and from or to such Banks as the Governor General in Council may approve in that behalf;

(*e*) the investing of the funds of the Bank upon any of the securities specified in sub-clauses (*i*) to (*iii*) of clause (*a*) and converting the same into money when required, and altering, converting and transposing such investments for or into others of the investments above specified;

(*f*) the making, issuing and circulating of bank post-bills and letters of credit made payable in India, or in Ceylon, to order or otherwise than to the bearer on demand;

(*g*) the buying and selling of gold and silver whether coined or uncoined;

(*h*) the receiving of deposits and keeping cash accounts on such terms as may be agreed on;

(*i*) the acceptance of the charge of plate, jewels, title-deeds or other valuable goods on such terms as may be agreed on;

(*j*) the selling and realising of all property, whether moveable or immoveable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claims;

(*k*) the transacting of pecuniary agency business on commission;

(*l*) the acting as administrator, executor or trustee for the purpose of winding up estates and the acting as agent on commission in the transaction of the following kinds of business, namely:—

(*i*) the buying, selling, transferring and taking charge of any securities or any shares in any public Company;

(*ii*) the receiving of the proceeds whether principal, interest or dividends, of any securities or shares;

(*iii*) the remittance of such proceeds at the risk of the principal by public or private bills of exchange, payable either in India or elsewhere;

(*m*) the drawing of bills of exchange and the granting of letters of credit payable out of India, for the use of principals for the purpose of the remittances mentioned in clause (*l*) and also for private constituents for *bonâ fide* personal needs;

(*n*) the buying, for the purpose of meeting such bills or letters of credit, of bills of exchange payable out of India, at any usance not exceeding six months;

(*o*) the borrowing of money in India for the purposes of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise;

(*p*) the borrowing of money in England for the purposes of the Bank's business upon the security of assets of the Bank, but not otherwise; and

(*q*) generally, the doing of all such matters and things as may be incidental or subsidiary to the transacting of the various kinds of business hereinbefore specified.

Part II.

Business which the Bank is not authorised to carry out or transact.

The Bank shall not transact any kind of banking business other than those specified in Part I and in particular—

(*1*) It shall not make any loan or advance—

(*a*) for a longer period than six months, or

(*b*) upon the security of stock or shares of the Bank, or

(*c*) save in the case of the estates specified in clause (*c*) of Part I, upon mortgage or in any other manner upon the security of any immoveable property, or the documents of title relating thereto.

(*2*) The Bank shall not (except upon a security of the kind specified in sub-clauses (*i*) to (*iv*) of clause (*a*) of Part I) discount bills for any individual or partnership-firm for an amount exceeding in the whole at any one time such sum as may be prescribed, or lend or advance in any way to any individual or partnership-firm an amount exceeding in the whole at any one time such sum as may be so prescribed.

(*3*) The Bank shall not discount or buy, or advance and lend, or open cash-credits on the security of any negotiable instrument of any individual or partnership-firm, payable in the town or at the place where it is presented for discount, which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership.

(*4*) The Bank shall not discount or buy, or advance and lend or open cash-credits on the security of any negotiable security having at the date of the proposed transaction a longer period to run than six months or, if drawn after sight, drawn for a longer period than six months:

Provided that nothing in this Part shall be deemed to prevent the Bank from allowing any person who keeps an account with the Bank to overdraw such account, without security, to such extent as may be prescribed.

SCHEDULE II.

Regulations of the Bank.

(*See section 22.*)

1. Every person whose name is entered as a shareholder in the register of shareholders shall, without payment, be entitled to a certificate under the common seal of the Bank or if the certificate relates to shares registered in a branch register under the official seal of the Bank specifying the share or shares held by him and the amount paid up thereon: Provided that, in respect of a share or shares held jointly by several persons, the Bank shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint-holders shall be sufficient delivery to all. Share certificates.

Lien.

2. The Bank shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or Bank's lien on shares.

payable at a fixed time in respect of that share, and the Bank shall also have a lien on all shares standing registered in the name of a single person for all moneys presently payable by him or his estate to the Bank. The Bank's lien, if any, on a share shall also extend to all dividends payable thereon.

Power to sell for default.

3. The Bank may sell, in such manner as it thinks fit, any shares on which it has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or to the person entitled by reason of his death or insolvency to the share.

Disposal of proceeds of sales.

4. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable, as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase-money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on Shares.

Calls.

5. The Bank may, from time to time, make calls upon the shareholders in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than two months from the last call; and each shareholder shall (subject to receiving at least two months' notice specifying the time or times of payments) pay to the Bank at the time or times so specified the amount called on his shares.

Liability of joint holders.

6. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

Liability to pay interest on unpaid calls.

7. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of ten per cent. per annum from the day appointed for the payment thereof to the time of the actual payment, but the Central Board shall be at liberty to waive payment of that interest wholly or in part.

Transfer and transmission of Shares.

Execution of transfers.

8. The instrument of transfer of any share in the Bank shall be executed both by the transferor and transferee, and the tranferor shall

be deemed to remain holder of the share until the name of the transferee is entered in the register of shareholders in respect thereof.

Form of transfers.

9. Shares in the Bank shall be transferred in the following Form, or in any usual or common Form which the Central Board shall approve:—

I, A B of , in consideration of the sum of rupees paid to me by C D of (hereinafter called "the said transferee") do hereby transfer to the said transferee the share [or shares] numbered in the Imperial Bank of India to hold unto the said transferee, his executor, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof, and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid.

As witness our hands the day of

Witness to the signature of, etc.

Power to decline to register transfers.

10. The Bank may decline to register any transfer of shares, not being fully paid shares, to a person of whom it does not approve, and may also decline to register any transfer of shares on which the Bank has a lien. The Bank may also suspend the registration of transfers for any period during which it has under the provisions of this Act directed that the registers shall be closed.

The Bank may decline to recognise any instrument of transfer unless—

(*a*) a fee not exceeding two rupees is paid to the Bank in respect thereof; and

(*b*) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Bank may reasonably require to show the right of the transferor to make the transfer.

Deceased shareholders.

11. The executors or administrators of a deceased sole holder of a share shall be the only persons recognised by the Bank as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognised by the Bank as having any title to the share.

Death or insolvency of shareholders.

12. Any person becoming entitled to a share in consequence of the death or insolvency of a shareholder shall, upon such evidence being produced as may be required by the Bank, have the right either to be registered as a shareholder in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or insolvent person could have made; but the Bank shall, in either case, have the same right to decline or suspend registration as it would have

had in the case of a transfer of the share by the deceased or insolvent person before the death or insolvency.

Rights of persons acquiring shares on death or insolvency of shareholder.

13. Any person becoming entitled to a share in consequence of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a shareholder in respect of the share, be entitled in respect of it to exercise any right conferred on a shareholder in relation to meetings of the Bank.

Forfeiture of Shares.

Failure to pay call.

14. If a shareholder fails to pay any call or instalment of a call on the day appointed for payment thereof, the Central Board may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

Form of notice.

15. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

Forfeiture of shares.

16. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Central Board to that effect.

Disposal of forfeited shares.

17. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Central Board thinks fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Central Board thinks fit.

Liability of shareholders after forfeiture.

18. A person whose shares have been forfeited shall cease to be a shareholder in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Bank all moneys which, at the date of forfeiture, were presently payable by him to the Bank in respect of the shares, but his liability shall cease if and when the Bank receives payment in full of the nominal amount of the shares.

Alteration of Capital.

Power to increase or reduce capital.

19. The shareholders of the Bank may, by special resolution and with the previous sanction of the Governor General in Council, increase or reduce the capital of the Bank:

Provided that no such special resolution shall be deemed to have been passed, unless at least one-third in number of the shareholders, holding at least one-half of the paid-up capital of the Bank for the time being, be present in person or by proxy, and the majority of such shareholders have voted either by show of hands or by poll, as the case may be, in favour of the said resolution.

Procedure on resolution to increase capital.

20. When any such special resolution to increase the capital has been passed, the Central Board may, subject to the provisions of this Act and to the special directions (if any) given in reference thereto by the meeting at which such resolution has been passed—

(*a*) make such orders as it thinks fit for the opening of subscriptions by the shareholders towards such increase of capital;

(*b*) allow to the shareholders such period to fill up the subscription as it thinks fit;

(*c*) direct the manner in which the shareholders shall subscribe and pay into the Bank the proportions of new capital which they may respectively desire to subscribe; and

(*d*) make such orders as it thinks fit for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up in the manner aforesaid.

New shares.

21. Any new shares shall be subject to the same provision with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original capital.

Procedure on resolution to reduce capital.

22. When any such special resolution to reduce the capital has been passed, the Central Board may (subject as aforesaid) determine the manner in which the reduction shall be carried into effect.

Meetings of Shareholders.

Annual general meeting.

23. (*1*) On the first Monday of the month of August in every year, or as soon after such day as is convenient, a general meeting shall be held at such time and at such town where there is a local head office of the Bank as shall from time to time be prescribed by the Central Board, at which meeting the Central Board shall submit to the shareholders a statement of the affairs of the Bank made up to the preceding thirtieth day of June:

Provided that such general meeting shall not be held on two consecutive occasions at any one town in which there is a local head office of the Bank.

(*2*) A notice convening such meeting, signed by a Managing Governor, shall be published in the Gazette of India and in such other manner as the Central Board may direct at least fifteen days before the meeting is held.

Special meetings.

24. Any hundred or more shareholders holding shares to the aggregate amount of five hundred thousand rupees or any three Governors may convene a special meeting upon giving sixty days' previous notice of such meeting, and of the purpose for which the same is convened, as well to the Central Board as also by public advertisement in the Gazette of India, and in two of the English daily newspapers and one of the vernacular newspapers:

Provided that three months' previous notice shall be thus given of any special meeting held for the purpose of increasing or reducing the capital of the Bank, and shall also be addressed to every shareholder.

Quorum.

25. (*1*) No business shall be transacted at any meeting, whether general or special, unless a quorum of two hundred shareholders, in person or by proxy, is present at the commencement of such business.

(*2*) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by shareholders not being Governors, shall be dissolved; in any other case, it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is not present, those shareholders who are present shall be a quorum.

Decision by majority of votes.

26. (*1*) Save as is otherwise provided in this Act in regard to resolutions for the increase or reduction of capital or for the removal of a Governor, every election and every matter submitted to a meeting, whether general or special, shall be decided by a majority of votes.

(*2*) No shareholder shall be allowed to vote at any such meeting in respect of any share acquired by transfer, unless such transfer shall have been completed and registered at least three months before the time of such meeting.

(*3*) No shareholder shall be entitled to vote at any meeting in respect of any shares held by him alone or jointly, whilst any call due from him alone or jointly remains unpaid.

Power to declare resolution carried by show of hands.

27. Save as otherwise provided in this Schedule a declaration by the chairman of any meeting, that a resolution has been carried or rejected thereat upon a show of hands, shall be conclusive, and an entry to that effect in the book of proceedings of the Bank shall be sufficient evidence of that fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution, unless, immediately on such declaration, a poll be demanded in writing by ten shareholders present and entitled to vote at such meeting.

Poll to be taken, if duly demanded.

28. If a poll be duly demanded, it shall be taken either at once or at such time and place and, save as otherwise provided in this Act, either by open voting or by ballot, as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Proceedings and resolutions at meetings to be binding.

29. The proceedings at any meeting and all resolutions and decisions of such meeting shall be valid and binding on the Bank so far as such proceedings, resolutions and decisions are consistent with the provisions of this Act.

Votes of Members.

Votes.

30. On a show of hands every shareholder present in person shall have one vote. On a poll every shareholder shall have one vote for every four shares of which he is the holder.

Votes of joint holders.

31. In the case of joint-holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint-holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of shareholders.

Votes on behalf of lunatics and minors.

32. A shareholder of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and a shareholder who is a minor may similarly vote by his guardian and any such committee or guardian may, on a poll, vote by proxy.

Shareholders in default.

33. No shareholder shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Bank have been paid.

Poll.

34. On a poll votes may be given either personally or by proxy.

Form of proxies.

35. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing. No person shall act as a proxy unless either he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he has been appointed to act at that meeting as proxy for a corporation.

Deposit of proxies.

36. The instrument appointing a proxy and the power-of-attorney or other authority (if any), under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the head office of the Bank in the place where the meeting is to be held not less than ninety-six hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

Local Meetings.

Annual local meeting.

37. A general meeting of the shareholders on a branch register shall be held once in every year at the local head office of the Bank at which the branch register is kept. It shall be held on such date as the Central Board may direct.

Procedure at local meeting.

38. The foregoing provisions of this Schedule as to the convening of general and special meetings and procedure at meetings shall, so far as may be, apply to local and special local meetings of the shareholders on a branch register:

Provided that references in the said provisions to shareholders shall be deemed to be references to shareholders on the branch register, and references to Governors, Managing Governors and the Gazette of India shall be deemed to be references, respectively, to the members of the Local Board, Secretaries and to the local official Gazette:

Provided, further, that ten or more shareholders holding shares to the aggregate amount of fifty thousand rupees may convene a special local meeting and that the number of shareholders to constitute a quorum and to demand a poll in the case of a local meeting shall be, respectively, twenty and five.

Qualifications and disqualifications of Governors and others.

Qualification and disqualification of Governors and of members of Local Boards.

39. (*1*) No person shall be qualified to serve as a Governor or as a member of a Local Board who is not a holder in his own right of unencumbered shares of the Bank, to the nominal amount of ten thousand rupees at the least:

Provided that this provision shall not apply in the case of a person who is an officer of the Bank or is nominated or appointed by the Governor General in Council.

(*2*) No person shall be qualified to serve as a Governor or as a member of a Local Board—

if he holds the office of director, provisional director, promotor, agent or manager of any joint-stock bank established or having a branch or agency in British India, or advertised as about to be established or to have a branch or agency in British India:

Provided that this disqualification shall not apply to any person, being a director of a joint-stock bank, who may be nominated as a Governor under the provision of clause (*iii*) of sub-section (*1*) of section 28; or

if he is a salaried officer of Government not specially authorised by this Act or by the Governor General in Council to serve as a member;

and the office of a Governor or a member of the Local Board shall be vacated—

if the person holding it resigns his office or dies;

if he accepts or holds any other office of profit under the Bank;

if he becomes insolvent or bankrupt, or compounds with his creditors;

if he is declared lunatic, or becomes of unsound mind;

if he is absent from the Central Board or the Local Board, as the case may be, for more than six consecutive months; or

if he ceases to hold in his own right the amount of shares required to qualify him for the office.

(*3*) No two persons who are partners of the same mercantile firm, or are directors of the same private company, or one of whom is the general agent of, or holds a power of procuration from the other, or from a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as members of the Central Board or a Local Board or of the Central Board and a Local Board, at the same time.

Removal of Governors and members of Local Boards.

Removal of Governors.

40. The shareholders may, by a special resolution passed by a majority of the votes of shareholders holding in the aggregate not less than one-half of the capital, remove any Governor (other than a Governor nominated or appointed by the Governor General in Council) before the expiration of his period of office, and appoint, in his stead, a qualified person who shall in all respects stand in his place.

Removal of member of Local Board.

41. The shareholders on a branch register may, by a special local resolution passed by the votes of shareholders holding in the aggregate not less than one-half of the capital on the branch register, remove any member of the Local Board before the expiration of his period of office, and appoint, in his stead, a qualified person who shall in all respects stand in his place.

Meetings of Central Board.

Meetings of Central Board.

42. (*1*) Meetings of the Central Board shall be convened not less than once in every three months by a Managing Governor and a meeting of the Central Board shall be held once at least in every year at every local head office established by this Act.

(*2*) Any Local Board may require a Managing Governor to convene a meeting of the Central Board at any time and a Managing Governor shall forthwith convene a meeting accordingly.

(*3*) Four Governors entitled to vote shall form a quorum for the transaction of business.

(*4*) At each meeting of the Central Board the Governors present shall elect from among themselves a chairman for such meeting, who, if he is entitled to vote, shall have a second or casting vote in all cases of an equal division of votes.

Local Boards.

Term of office and number of members of Local Board.

43. (*1*) At the first general local meeting after the commencement of this Act, and at the annual general local meeting thereafter, the two members of the Local Board who have been longest in office as members thereof shall go out of office. The vacancies shall be filled by election at a general or special local meeting.

(*2*) Any member so retiring may be re-elected; and if any question arises as to which of the members who have been the same time in office shall retire, the question shall be decided by the Local Board by ballot.

(*3*) Subject to any bye-laws which may be prescribed, the number of members of any Local Board may be varied by a special local resolution.

(*4*) Three of the members of a Local Board shall form a quorum for the transaction of business.

(*5*) Meetings of a Local Board shall be convened by the president, vice-president or, in their absence, the senior member of the Board, whenever he thinks fit.

President, vice-president and chairman.

44. (*1*) At the first meeting of the Local Board in every year it shall choose a president and vice-president from among its members, and whenever the office of president or vice-president becomes vacant the Local Board shall, at its next meeting, choose a successor for the remainder of the current year:

Provided that no person shall be chosen to be president or vice-president twice in succession.

(*2*) The president or, in his absence, the vice-president shall be chairman at all meetings of the Local Board and at all general or special local meetings:

Provided that, if both the president and vice-president be absent at any meeting, the persons present at such meeting shall elect a chairman from among themselves.

(*3*) The chairman shall have a second or casting vote in all cases of an equal division of votes.

Vacancies.

45. (*1*) Any vacancy occurring on a Local Board by the death, resignation or disqualification of any member shall be filled up by the remaining members who shall co-opt a duly-qualified person to fill the vacancy.

(*2*) Any member so appointed shall be considered to have held office from the date on which the member in whose place he is appointed was elected or, when such member was appointed under this clause, from the date on which his mediate or immediate predecessor was elected, as the case may be.

General provisions as to Central and Local Boards.

Proceedings of Boards not invalidated by vacancies.

46. No act or proceeding of the Central Board or of a Local Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among its Governors or members.

Acts of members of Boards valid notwithstanding subsequent discovery of disqualification.

47. All acts done by any person acting in good faith as a Governor or as a member of a Local Board shall be as valid as if he was a member of the Central or Local Board, as the case may be, notwithstanding it be afterwards discovered that there was some defect in his appointment or qualification.

Indemnity of members of Boards.

48. (*1*) Every Governor and every member of a Local Board shall be indemnified by the Bank against all losses and expenses incurred by him in or about the discharge of his duties, except such as happen from his own wilful act or default.

(*2*) A Governor shall not nor shall a member of a Local Board be responsible for any other Governor or member or for any officer or servant of the Bank or for any loss or expense happening to the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank, or by the insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank, or by anything done in the execution of the duties of his office or in relation thereto, or otherwise than for his own wilful act or default.

The Seals.

Common seal.

49. (*1*) The common seal of the Bank shall not be affixed to any instrument except in the presence of at least three Governors including a Managing Governor, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness. Unless so signed as aforesaid such instrument shall be of no validity.

(*2*) The Bank shall have for use by the Local Boards at Calcutta, Madras and Bombay, and may have for the use of other Local Boards established under this Act, official seals which shall be facsimiles of the common seal of the Bank with the addition of the name of the local head office where it is to be used.

(*3*) The official seal shall be affixed to the certificates issued in respect of any shares entered in the branch registers kept at those places and may be used for such other purposes as may be prescribed.

(*4*) An instrument to which an official seal is duly affixed shall bind the Bank as if it had been sealed with the common seal of the Bank.

(*5*) An official seal shall not be affixed to any instrument except in the presence of at least two members of the Local Board and the

secretary who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness. Unless so signed as aforesaid such instrument shall be of no validity.

Officers of the Bank.

Appointment, salaries, suspension and removal of officers.

50. The Central Board and, subject to the provisions of this Act, the Local Boards shall have power—

(*a*) to appoint such officers and servants as may be necessary to conduct the business of the Bank,

(*b*) to grant salaries, pensions and other emoluments to such officers and servants, and

(*c*) to suspend or remove any officer or servant of the Bank.

Accounts, receipts and documents of Bank by whom to be signed.

51. The Managing Governors, the secretaries and such other officers of the Bank as the Central Board may authorise in this behalf by notification in the Gazette of India are hereby severally empowered, for and on behalf of the Bank, to endorse and transfer promissory notes, stock-receipts, stock-debentures, shares, securities and documents of title to goods, standing in the name of or held by the Bank, and to draw, accept and endorse bills of exchange, bank post-bills, and letters of credit, in the current and authorised business of the Bank, and to sign all other accounts, receipts and documents connected with such business.

Officers forbidden to engage in other commercial business.

52. No Managing Governor, secretary, inspector, manager, or accountant in the service of the Bank, and, without the previous sanction of the Board, no *khazanchi*, cashier or shroff in the service of the Bank and no agent, at any branch or agency of the Bank, shall engage in any other banking or commercial business, either on his own account or as agent for any other person or persons, or shall act as broker or agent for the sale or purchase of Government or other securities.

Security from officers.

53. Every person appointed to hold or act in any one or more of the said offices, and every other officer from whom the Central Board may think fit to require it shall give security to the Bank for the faithful discharge of his duty to the satisfaction of the Central Board in such amount and in such manner as it thinks proper. The security to be given as aforesaid by the person holding or acting in the office of secretary shall not be in a less amount than fifty thousand rupees.

Accounts and Dividends.

Books to be balanced twice a year.

54. (*1*) The Central Board shall cause the books of the Bank to be balanced on every thirty-first day of December and every thirtieth day of June.

(*2*) A statement of the balance at every such period, signed by a majority of the Governors, shall be forthwith sent to the Governor General in Council.

(*3*) The Governor General in Council shall (so long as any such arrangement with the Secretary of State as is mentioned in section 10 is in force) be entitled to require of the Central Board any information touching the affairs of the Bank and the production of any document of the Bank, and may require the publication of such statements of its assets and liabilities at such intervals and in such form and manner as he thinks fit.

Dividends to be determined half-yearly.

55. (*1*) An account of the profits of the Bank during the previous half-year shall be taken on or immediately after every thirty-first day of December and every thirtieth day of June, and a dividend shall be made as soon thereafter as conveniently may be, and the amount of such dividend shall be determined by the Central Board.

(*2*) No unpaid dividend shall bear interest as against the Bank.

Transfer to Reserve.

56. The Central Board may, before declaring any dividend, set aside out of the profits of the Bank such sums as it thinks proper as a reserve or reserves which shall, at the discretion of the Central Board, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the Bank may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the Bank or be invested in any of the securities specified in sub-clauses (*i*) to (*iii*) of clause (*a*) of Part I of Schedule I.

Joint-holders.

57. If several persons are registered as joint-holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

Audit.

Auditors.

58. (*1*) Three auditors shall be elected and their remuneration fixed at the annual general meeting. The auditors may be shareholders, but no Governor or member of a Local Board or other officer of the Bank shall be eligible during his continuance in office. Any auditor shall be eligible on quitting office for re-election.

(*2*) The first auditors of the Bank may be appointed by the Central Board before the annual general meeting and if so appointed shall hold office only until the first annual general meeting. All auditors elected under this clause shall severally be and continue to act as auditors until the first general meeting after their respective elections:

Provided that, if any casual vacancy occurs in the office of any auditor elected under this section, a special meeting shall be called for the purpose of supplying the same.

Government auditors.

59. Without prejudice to anything contained in the foregoing provisions, the Governor General in Council may appoint such auditors as he thinks fit to examine and report upon the accounts of the Bank.

Rights and duties of auditors.

60. (*1*) Every auditor shall be supplied with a copy of the half-yearly balance-sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto. Every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank if appointed by it and at the expense of the Governor General in Council if appointed by him, employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Governor or any member of a Local Board, or any officer of the Bank.

(*2*) The auditors shall make a report to the shareholders or to the Governor General in Council, as the case may be, upon the annual balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the prescribed particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and in case they have called for any explanation or information from the Central Board, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read together with the report of the Central Board at the annual general meeting.

Notices.

Service.

61. (*1*) A notice may be given by the Bank to any shareholder either personally or by sending it by post to him to his registered address or (if he has no registered address in British India) to the address, if any, within British India supplied by him to the Bank for the giving of notices to him.

(*2*) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Absence of registered address.

62. If a shareholder has no registered address, a notice addressed to him and advertised in the Gazette of India and a daily newspaper shall be deemed to be duly given to him on the day on which the advertisement appears.

Notice on joint-holders.

63. A notice may be given by the Bank to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share.

64. Any notice given in accordance with the foregoing provisions shall be deemed to have been duly given notwithstanding that the shareholder be then deceased and whether or not the Bank had notice of his decease, and shall in that event be deemed to be a notice to his legal representative. Notice to legal representative.

65. A notice may be served on the Bank by leaving it at, or sending it by post to, any local head office of the Bank. Service of notice on Bank.

SCHEDULE III.

ENACTMENTS REPEALED.

(See section 34.)

Year.	No.	Short title.
1876	XI	The Presidency Banks Act, 1876.
1879	V	The Presidency Banks Act, 1879.
1899	XX.	The Presidency Banks Act, 1899.
1907	I	The Presidency Banks (Amendment) Act, 1907.
1916	VIII	The Presidency Banks (Amendment) Act, 1916.

ACT No. XLVIII OF 1920.[1]

[*22nd September, 1920.*]

An Act to constitute an Indian Territorial Force, and to provide for the enrolment therein of persons other than European British subjects.

WHEREAS it is expedient to provide for the constitution of an Indian Territorial Force, and for the enrolment therein of persons other than European British subjects who may offer themselves therefor; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Territorial Force Act, 1920. Short title, extent and commencement.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 174; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 264, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1049, 1096 and 1273.

(*3*) It shall come into force on the first day of October, 1920.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"Advisory Committee" means an Advisory Committee constituted under section 12 for the Province within which a person subject to this Act for the time being resides or is serving, as the case may be;

"enrolled" means enrolled or re-enrolled in the Indian Territorial Force under this Act;

"European British subject" means any person who is a European British subject as defined in the [1]Code of Criminal Procedure, 1898, or is a British subject of European descent in the male line; V of 1898.

"prescribed" means prescribed by rules made under this Act; and

"University Corps" means any corps of the Indian Territorial Force constituted for the appointment thereto of students of, and other persons connected with, a University established by law in British India or colleges affiliated to such a University.

Constitution of Indian Territorial Force.

3. There shall be raised and maintained in the manner hereinafter provided a force to be designated the Indian Territorial Force:

Provided that the Governor General in Council shall establish all or any of the branches of the Force as circumstances may permit from time to time.

Constitution and disbandment of units.

4. The Governor General in Council may constitute[2] for any Province one or more corps or units of the Indian Territorial Force and may disband any corps or unit so constituted.

Enrolment.

5. (*1*) Any British subject (not being a European British subject) or any subject of a State in India may offer himself for enrolment in the Indian Territorial Force, and any such person who satisfies the prescribed conditions may be enrolled in the prescribed manner for such period, not exceeding six years, as may be prescribed.

(*2*) An applicant for enrolment may apply to be enrolled for service in any particular branch, corps or unit constituted for the Province within which he for the time being resides.

Appointment to corps or unit.

6. (*1*) Every person enrolled shall without unnecessary delay be appointed in the prescribed manner to a corps or unit constituted under section 4 for the Province in which he for the time being resides.

(*2*) Any person who has been enrolled for service in any particular branch, corps or unit shall be appointed to a corps or unit of that branch or to that corps or unit, as the case may be.

Transfer and attachment.

7. (*1*) Any person appointed to a corps or unit under section 6 may be transferred, whether on disbandment of the corps or unit or otherwise, to another corps or unit of the Indian Territorial Force, in such manner as may be prescribed.

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[1] General Acts, Vol. V.

[2] For notifications constituting corps and units, *see* the List of General Statutory Rules and Orders.

(2) Nothing contained in sub-section (1) shall be deemed to authorise the transfer without his own consent of any person enrolled to a corps or unit constituted for a Province other than that in which he for the time being resides, or of a person enrolled for service in a particular branch to a corps or unit of another branch, or of a person enrolled for service in a particular corps or unit to any other corps or unit.

(3) Any person enrolled may be attached at his own request to any corps or unit of the Indian Territorial Force or to any regular forces.

Discharge.

8. Every person enrolled shall be entitled to receive his discharge from the Indian Territorial Force on the expiration of the period for which he was enrolled, and any such person may, prior to the expiration of that period, be discharged from the said Force by such authority and subject to such conditions as may be prescribed, and shall be so discharged on a recommendation of the Advisory Committee in this behalf:

Provided that no person enrolled who is for the time being engaged in military service under the provisions of this Act shall be entitled to receive his discharge before the termination of such service.

Liability to serve and perform military service.

9. (1) Every person enrolled shall, subject to such conditions as may be prescribed, be bound to serve in any corps or unit of the Indian Territorial Force to which he has been appointed or transferred or is for the time being attached, and shall be subject to all rules and regulations that may be made under this Act relating to such corps or unit.

(2) Every person enrolled shall be liable to perform military service—

(a) when called out with any portion of the Indian Territorial Force by an order of the senior military officer present either to act in support of the civil power or to provide guards which, in the opinion of such officer, are essential; or

(b) when any portion of the Indian Territorial Force to which he belongs has been embodied to support or supplement His Majesty's regular forces in India in the event of an emergency by a notification directing such embodiment issued by the Governor General in Council and published in the Gazette of India; or

(c) when attached at his own request to any regular forces.

Territorial limits of liability to, and duration of, military service.

10. (1) No person embodied under section 9 shall be required to perform military service beyond the limits of India save under a general or special order of the Governor General in Council.

(2) Any portion of the Indian Territorial Force which, having been called out or embodied under section 9, is performing military service shall be replaced by regular troops or otherwise as soon as circumstances permit, and shall not be required to perform such service after such replacement has been effected to the satisfaction of the senior military officer in charge or after the cancellation of the order or notification under clause (a) or (b), as the case may be, of section 9.

Application of Act VIII of 1911.

11. (*1*) Every commissioned officer of the Indian Territorial Force when doing duty as a commissioned officer and every non-commissioned officer and man of the said Force—

(*a*) when called out or embodied for military service under section 9, or

(*b*) when attached to, or otherwise acting as part of or with, any regular forces,

shall be subject to the [1]Indian Army Act, 1911, and the rules made thereunder, whereupon the said Act and rules shall apply to him as if he held the same rank in His Majesty's Indian forces as he holds for the time being in the Indian Territorial Force. VIII of 1911.

(*2*) Every commissioned officer, non-commissioned officer and man of the said Force when embodied for, or otherwise undergoing, military training in the prescribed manner shall be subject to the [1]Indian Army Act, 1911, and the rules made thereunder: VIII of 1911.

Provided that the said Act and rules shall in their application to such persons be modified to such extent and in such manner as may be prescribed:

Provided, further, that officers, non-commissioned officers and men of a University Corps shall, when undergoing military training, be subject only to such disciplinary and other rules as may be prescribed in this behalf.

[2][(*3*) Where an offence punishable under the [1]Indian Army Act, 1911, or, as the case may be, under that Act as modified under sub-section (*2*), has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence under that Act, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished, if he had continued to be so subject: VIII of 1911.

Provided that no such person shall be kept in military custody after he has ceased to belong to the Indian Territorial Force, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry.]

Advisory Committees.

12. (*1*) The Local Government of each Province for which any unit of the Indian Territorial Force has been constituted shall constitute an Advisory Committee consisting of three members, of whom one shall be a military officer appointed in the prescribed manner and the others shall

[1] General Acts, Vol. VII.

[2] This sub-section was added by s. 2 of the Indian Territorial and Auxiliary Forces (Amendment) Act, 1923 (XXXI of 1923), *infra*.

be persons who are British subjects (other than European British subjects) not in the service of Government, appointed annually by, or under the orders of, the Local Government.

(*2*) The duties, powers and procedure of Advisory Committees shall be such as may be prescribed.

Power to make rules.

13. (*1*) The Governor General in Council may, after previous publication, make rules[1] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing powers, such rules may—

(*a*) prescribe the manner in which, the period for which and the conditions subject to which, persons may be enrolled under section 5;

(*b*) prescribe the manner in which persons enrolled may be appointed to corps and units under section 6 or transferred under section 7;

(*c*) prescribe the authorities by which and the conditions subject to which persons enrolled may be discharged under section 8;

(*d*) prescribe the preliminary and periodical training to be undergone by any persons or class of persons enrolled and provide for the embodiment of any corps or unit for that purpose;

(*e*) prescribe the military or other obligations to which members of a University Corps shall be liable when undergoing military training and provide generally for the maintenance of discipline in such cases;

(*f*) provide for the medical examination of persons offering themselves for enrolment under section 5;

(*g*) provide for and regulate the remuneration, allowances, gratuities or compensation (if any) to be paid to any person or class of persons enrolled or to their dependants; and

(*h*) provide for any other matter which under this Act is to be or may be prescribed.

(*3*) All rules made under this Act shall be published in the Gazette of India, and on such publication shall have effect as if enacted in this Act.

Power to make regulations.

14. (*1*) The Commander-in-Chief of His Majesty's forces in India may make regulations consistent with this Act and the rules made thereunder providing generally for all details connected with the organization and personnel of the Indian Territorial Force and for the duties, military training, clothing, equipment, allowances and leave of persons enrolled.

[1] For notification publishing such rules, *see* the List of General Statutory Rules and Orders.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may specify the courses of training or instruction to be followed by any person or class of persons enrolled.

Certain persons] subject to this Act to be deemed part of His Majesty's Army for certain purposes.

15. For the purposes of sections 128, 130 and 131 of the [1]Code of Criminal Procedure, 1898, all officers, non-commissioned officers and men of the Indian Territorial Force who have been appointed to a corps or unit shall be deemed to be officers, non-commissioned officers and soldiers, respectively, of His Majesty's Army. V of 1898.

Exemption from local taxation.

16. No person shall be liable to pay any municipal or other tax in respect of any horse, bicycle, motor bicycle, motor car, or other means of conveyance which he is authorised by regulations made under section 14 to maintain in his capacity as a member of the Indian Territorial Force.

THE AUXILIARY FORCE ACT, 1920.

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SCHEDULE I.—TRAINING.

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ACT No. XLIX OF 1920.[1]

[*22nd September, 1920.*]

An Act to constitute an auxiliary force for service in India.

WHEREAS it is expedient to constitute an auxiliary force for service in India; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Auxiliary Force Act, 1920.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also to European British subjects within the territories of any Prince or Chief in India.

(*3*) It shall come into force on the first day of October, 1920.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

" Advisory Committee " means an Advisory Committee constituted under section 28 for the prescribed military area, or part of a prescribed military area, within which a person subject to this Act for the time being resides or is serving, as the case may be;

" competent military authority " means the General or other Officer Commanding the prescribed military area within which a person subject to this Act for the time being resides or is serving, as the case may be;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 154; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 255, and for Proceedings in Council, *see ibid*, 1920, Pt. VI, pp. 1042 and 1282.

" enrolled person " means a person enrolled in the prescribed manner under this Act;

" enrolling officer " means an officer authorised to enroll persons under this Act;

" prescribed " means prescribed by rules made under this Act, and " prescribe " has a corresponding meaning;

" regulation " means a regulation made under section 31; and

" training year " means a period of twelve months beginning on the first day of April and ending on the thirty-first day of March.

Constitution of an auxiliary force.

3. There shall be raised and maintained in the manner hereinafter provided an auxiliary force for service in India to be designated the Auxiliary Force, India.

Classes who may be enrolled.

4. Every person who—

(*a*) is a European British subject as defined in the [1]Code of Criminal Procedure, 1898, or V of 1898.

(*b*) was, on the thirtieth day of September, 1920, enrolled or deemed to be enrolled under the [2]Indian Defence Force Act, 1917 (not being a person enrolled under the provisions of section 12 of that Act), or III of 1917.

(*c*) is a British subject of European descent in the male line, or

(*d*) not being a British subject, satisfies the conditions prescribed for enrolment of persons of that class,

shall, subject to the provisions of this Act, be eligible for enrolment thereunder.

Enrolment.

5. (*1*) Any male eligible for enrolment under this Act who has attained the age of sixteen years and is not a member of His Majesty's regular naval, military or air forces or of His Majesty's Royal Indian Marine may apply to be enrolled in the Auxiliary Force, India, and if he satisfies the prescribed conditions, may be enrolled therein in the prescribed manner and shall thereupon become subject to the provisions of this Act.

(*2*) An applicant for enrolment may apply to be enrolled for service in any particular branch, or in any particular corps or unit located in the prescribed military area within which he for the time being resides.

Liability to undergo military training.

6. Every enrolled person shall be liable to undergo military training as provided by or under this Act until discharged from the Auxiliary Force, India, as hereinafter provided.

Liability to perform military service.

7. Every enrolled person liable to undergo military training under section 6 shall, on and from the first day of April next following the date on which he attains the age of eighteen years or, if he has already attained the age of eighteen years on and from any later date on which he is enrolled, be liable to perform military service under this Act.

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[1] General Acts, Vol. V.
[2] General Acts, Vol. VIII.

Appointment to corps or unit.

8. (*1*) Every enrolled person shall, without unnecessary delay, be appointed by, or under the orders of, the competent military authority to a corps or unit of the Auxiliary Force, India, and on receipt of an order so appointing him shall report himself for the purpose of joining such corps or unit at such time and place as may be specified in the order.

(*2*) Any person who has been enrolled for service in any particular branch, corps or unit shall be appointed to a corps or unit of that branch or to that corps or unit, as the case may be.

Preliminary training.

9. Every enrolled person liable to perform military service under this Act who on becoming so liable has not attained the age of thirty-one years shall, within the training year in which he becomes so liable, undergo the preliminary training specified in Schedule I:

Provided that, if such preliminary training cannot be completed within that training year, it may be completed at the discretion of the competent military authority in the training year next following:

Provided, further, that any person who has completed the preliminary training required by regulations made under the [1]Indian Defence Force
III of 1917. Act, 1917, or who has served for a period of six months in His Majesty's naval, military or air forces or in His Majesty's Royal Indian Marine, or who is certified by the competent military authority to have undergone
III of 1917. adequate military training under the [1]Indian Defence Force Act, 1917, or under this Act or otherwise, shall be deemed to have completed the preliminary training required by this section.

Periodical training of persons entitled to rank as officers.

10. Every enrolled person (other than a commissioned officer of the Auxiliary Force, India) who is entitled to rank as an officer of His Majesty's Forces, shall undergo such periodical training as may be laid down in regulations.

Classification and periodical training.

11. Every enrolled person liable to perform military service under this Act (other than a person to whom the provisions of section 10 apply) shall be included as hereinafter provided in one or other of the following classes, namely:—

(*a*) the Active Class;
(*b*) the First (A) Class of the Reserve; or
(*c*) the Second (B) Class of the Reserve;

and shall undergo the periodical training specified in Schedule I for the Class in which he is for the time being included.

Classification.

12. (*1*) Every commissioned officer of the Auxiliary Force, India, shall be included in the Active Class until he relinquishes his commission.

(*2*) Enrolled persons liable to perform military service under this Act not being commissioned officers of the Auxiliary Force, India, or entitled

[1] General Acts, Vol. VIII.

to rank as officers of His Majesty's Forces, shall be classified as follows, namely:—

(*a*) every such person who is required by section 9 to undergo preliminary training and has completed or is deemed to have completed the same shall be included in the Active Class until the end of the training year in which he attains the age of thirty-one years;

(*b*) every such person who has completed the period of service in the Active Class as required by clause (*a*) or is enrolled after attaining the age of thirty-one years and before attaining the age of forty years shall be included in the First (A) Class of the Reserve until the end of the training year in which he attains the age of forty years;

(*c*) every such person who has completed the period of service in the First (A) Class of the Reserve as required by clause (*b*) or is enrolled after attaining the age of forty years shall be included in the Second (B) Class of the Reserve until discharged from the Auxiliary Force, India, as hereinafter provided.

(*3*) Any enrolled person who ceases to be entitled to rank as an officer of His Majesty's Forces or to be a commissioned officer of the Auxiliary Force, India, shall thereupon be included in the Class in which he would have been included under this section if the provisions of section 10 or sub-section (*1*), as the case may be, had not applied to him, and shall undergo periodical training accordingly.

(*4*) Any person who is under this section included in either Class of the Reserve may apply to the competent military authority to be included for any training year in any other Class for which more periodical training is specified in Schedule I, and shall thereupon be deemed to be included in that Class.

(*5*) Notwithstanding anything hereinbefore contained, if any person is under this section included in any Class after the commencement of a training year, the competent military authority shall reduce to such extent as he may deem fit, or may remit, the amount of periodical training to be undergone by such person in that year.

Variations of training.

13. (*1*) The competent military authority may, by order in writing,—

(*a*) on the recommendation of the Advisory Committee, direct the inclusion of any enrolled person in any Class for which less periodical training is specified than that specified for the Class in which he is included under the provisions of section 12, or

(*b*) on his own motion or on the recommendation of the Advisory Committee, reduce the specified amount of training either in individual cases or in the case of any unit or part thereof for any stated period.

(*2*) The competent military authority shall grant to each person whose training is reduced under clause (*b*) of sub-section (*1*) a certificate setting forth the amount of training to be undergone during the said period.

Medical examination.

14. Every enrolled person shall, if and when required by the competent military authority, present himself for such medical examination as may be necessary to determine the extent, if any, to which he is fit to undergo military training or to perform military service, before a medical officer appointed or approved in that behalf by the competent military authority, and for the purposes of such medical examination shall comply with the directions of such medical officer.

Transfers.

15. (*1*) Every person appointed to a corps or unit under section 8 shall remain in that corps or unit until transferred to another corps or unit by, or under the orders of, the competent military authority, but no person shall be transferred from the Infantry branch to another branch or from one unit to another unit located in the same prescribed military area except at his own request.

(*2*) Any person so transferred from the Infantry branch to another branch may be required to undergo such further preliminary training, not exceeding eight days, as may be ordered by the competent military authority, and thereafter shall undergo the periodical training specified in Schedule I for the branch to which he is transferred:

Provided that any periodical training already undergone by such person in the training year in which he is transferred shall be deemed to have been undergone in such other branch.

Explanation.—For the purposes of this section and of Schedule I, a day shall be deemed to consist of four hours of actual military drill or instruction, and may be made up of fractions of a day not more than four in number.

Change of residence.

16. (*1*) Any enrolled person who leaves his place of residence in India for the time being and thereby leaves the area commanded by one competent military authority for that commanded by another shall, if he does not intend to return to the area which he leaves, notify the competent military authority commanding that area of his change of residence.

(*2*) If such person having intended to return does not return within three months, he shall notify the competent military authority as aforesaid immediately on the expiry of that period.

(*3*) The competent military authority on being notified of a change of residence under sub-section (*1*) or sub-section (*2*) may, subject to the provisions of section 15, transfer such person from the corps or unit in which he is serving to another corps or unit.

Discharge.

17. (*1*) Any enrolled person who has attained the age of forty-five years or has completed four years' service from the date of his enrolment

shall, on application made by him in the prescribed manner, be entitled to receive his discharge from the Auxiliary Force, India.

(*2*) An enrolled person who is not entitled to his discharge under sub-section (*1*) may be discharged by the competent military authority on a recommendation of the Advisory Committee in this behalf.

Calling out and embodiment.

18. No person liable to perform military service under this Act shall be required to perform such service except—

(*a*) when called out with any portion of the Auxiliary Force, India, by an order of the senior military officer present either to act in support of the civil power or to provide guards which, in the opinion of such officer, are essential; or

(*b*) when any portion of the Auxiliary Force, India, to which he belongs has been embodied to support or supplement His Majesty's regular forces in the event of an emergency by a notification directing such embodiment issued by the Governor General in Council or any Local Government empowered by the Governor General in Council in that behalf and published in the Gazette of India or the local official Gazette, as the case may be; or

(*c*) when attached at his own request to any regular forces.

Territorial limits of liability to military service on calling out and embodiment.

19. No person called out under clause (*a*), or embodied under clause (*b*), of section 18 shall be required to perform military service beyond the limits of the prescribed military area in which the corps or unit to which he has been appointed or is for the time being attached is located, save when it is, in the opinion of the senior military officer present, necessary to proceed beyond those limits in the course of the military operations upon which the corps or unit or any portion thereof is for the time being engaged.

Duration of military service on calling out or embodiment.

20. Any portion of the Auxiliary Force, India, which, having been called out or embodied under section 18, is performing military service, shall be replaced by regular troops or otherwise as soon as circumstances permit, and shall not be required to perform such service after such replacement has been effected to the satisfaction of the senior military officer present or after the cancellation of the order or notification under clause (*a*) or (*b*), as the case may be, of section 18.

Application of the Army Act.

21. [1][(*1*)] Every commissioned officer of the Auxiliary Force, India, when doing duty as a commissioned officer, and every non-commissioned officer and man of the said Force—

(*a*) when attached to or otherwise acting as part of or with any regular forces, and

(*b*) when called out by an order, or embodied by a notification, under section 18,

shall be subject to the provisions of the Army Act and any orders or regulations made thereunder, and the said Act, orders and regulations 44 and 45 Vict., c. 58

[1] Section 21 was renumbered section 21 (*1*) by s. 3 of the Indian Territorial and Auxiliary Forces (Amendment) Act, 1923 (XXXI of 1923), *infra*.

shall apply to every such person in the circumstances aforesaid as if the same were enacted in this Act, and as if such person held the same rank in His Majesty's Army as he holds for the time being in the said Force.

44 and 45 Vict., c. 58.

[1][(2) Where an offence punishable under the Army Act has been committed by any person whilst subject to that Act under the provisions of sub-section (*1*), such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject:

Provided that no such person shall be kept in military custody after he has ceased to belong to the Auxiliary Force, India, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry.]

Refusal to appear for military service.

22. If any person liable to perform military service under this Act fails to comply with an order or notification under section 18 calling him out or embodying him for military service, any District Magistrate or Chief Presidency Magistrate may, on the application of the competent military authority or of an officer empowered by such authority in writing in that behalf, cause such person to be arrested and brought before him, and, if the Magistrate is satisfied that such person has been duly required to perform military service, the Magistrate may, without prejudice to any penalty which such person may have incurred, make over such person in custody to the military authorities.

Penalties for breach of sections 8, 14 and 16.

23. An enrolled person who refuses or without lawful excuse (the burden of proving which shall lie upon such person) neglects—

(*a*) to comply with any order under section 8; or

(*b*) to attend for medical examination, or to comply with the directions of the medical officer, as required by section 14; or

(*c*) to notify any change of residence as required by section 16;

shall be punishable with fine which may extend to fifty rupees.

Other offences.

24. An enrolled person commits an offence if he, in circumstances when he is not subject to military law, does any of the following acts, namely:—

(1) when on parade or undergoing military training or wearing His Majesty's uniform—

(*a*) strikes, or uses or offers violence to or uses threatening or insubordinate language to, or behaves with contempt to, his superior officer; or

[1] This sub-section was added by s. 3 of the Indian Territorial and Auxiliary Forces (Amendment) Act, 1923 (XXXI of 1923), *infra*.

(*b*) disobeys any standing order of, or lawful command given by, his superior officer; or

(*c*) neglects to obey a general or garrison order made specially applicable to the Auxiliary Force, India, by the competent military authority; or

(*d*) is in a state of intoxication; or

(*e*) being a non-commissioned officer strikes or ill-treats any person subject to military law or to this Act, or to the [1]Indian Territorial Force Act, 1920, who is his subordinate in rank or position; XLVIII of 1920.

(2) without sufficient cause fails to appear at the place of parade at the time fixed or to attend at any place in his capacity as a member of the Auxiliary Force, India, when duly required so to attend, or when on parade without sufficient cause quits the ranks;

(3) without sufficient cause fails to perform any part of the training which by or under this Act he is required to perform;

(4) strikes, or uses or offers violence to, any person whether subject to military law or not in whose military custody he is placed, and whether such person is or is not his superior officer;

(5) resists an escort whose duty it is to arrest him or detain him in military custody;

(6) being under arrest or detention or otherwise in lawful military custody escapes or attempts to escape;

(7) when in charge of any property belonging to Government or to a corps or unit of the Auxiliary Force, India, makes away with, or is concerned in making away with, any such property;

(8) wilfully injures, or by culpable neglect loses or causes injury to, any such property as is mentioned in clause (7);

(9) wilfully ill-treats a horse or other animal used in the public service;

(10) knowingly furnishes a false return or report of the number or state of men under his command or charge, or of any money, arms or ammunition, clothing, equipment, stores or other property in his charge;

(11) through design or culpable neglect omits to make or send any return of any matter mentioned in clause (10) which it is his duty to make or send;

(12) when it is his official duty to make a declaration respecting any matter, makes a declaration respecting such matter which he either knows or believes to be false or does not believe to be true;

(13) knowingly makes against any person subject to military law or to this Act or to the [1]Indian Territorial Force Act, 1920, an accusation which he either knows or believes to be false or does not believe to be true; XLVIII of 1920.

[1] *Supra.*

(14) falsely personates any other person at any parade or on any occasion when such other person is required by or under this Act to do any act or attend at any place, or abets any such act of personation.

Punishment for offences under section 24.

25. (*1*) Any person committing any of the offences specified in sub-clauses (*b*), (*c*) and (*d*) of clause (1) or in clauses (2), (3), (8), (11), and (14) of section 24 shall be punishable with fine which may extend to two hundred rupees.

(*2*) Any person committing any other offence specified in section 24 shall be punishable with imprisonment which may extend to two months, or with fine which may extend to two hundred rupees, or with both.

Dismissal.

26. The competent military authority may in his discretion dismiss any enrolled person from the Auxiliary Force, India.

Summary and minor punishments.

27. The Governor General in Council may prescribe summary and minor punishments for offences under section 24 or for contravention of any rule or regulation made under this Act to which enrolled persons shall be liable without the intervention of a Criminal Court, and the officer or officers by whom and the circumstances in which and the extent to which such summary and minor punishments may be inflicted, and the manner in which any such punishment may be enforced:

Provided that no punishment involving any kind of imprisonment shall be imposed as a summary or minor punishment:

Provided, further, that no summary punishment shall be inflicted in any case in which the accused claims to be tried by a Criminal Court.

Advisory Committees.

28. (*1*) The Local Government shall constitute for each prescribed military area one or more Advisory Committees each consisting of three or more members, of whom one shall be the competent military authority or a military officer appointed by him in this behalf and the others shall be persons eligible for enrolment in the Auxiliary Force, India, within the meaning of section 4, who shall be appointed annually by, or under the orders of, the Local Government.

(*2*) Any Advisory Committee constituted for a prescribed military area or a part thereof, as the case may be, which includes a Presidency-town or any other place to which the Governor General in Council may, by order in writing, declare this sub-section to apply[1], shall consist of not less than five members, of whom not more than two shall be persons in the service of Government.

(*3*) The Governor General in Council shall prescribe the duties, powers and procedure of Advisory Committees and, in particular, the matters in respect of which the competent military authority shall be bound to give effect to a recommendation of an Advisory Committee unless the Local Government otherwise directs.

[1] For notification applying the provisions of this sub-section to the towns of Rangoon and Karachi, *see* the List of General Statutory Rules and Orders.

Constitution and disbandment of units.

29. The Governor General in Council may constitute[1] any corps or unit and may disband any corps or unit constituted under this Act.

Power to make rules.

30. (*1*) The Governor General in Council may make rules[2] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing powers such rules may—

(*a*) provide for the appointment of enrolling officers;

(*b*) prescribe military areas for the purposes of this Act;

(*c*) prescribe the manner in which and the conditions subject to which European British subjects and other persons who are not British subjects may offer themselves for enrolment under this Act;

(*d*) define the manner in which and the conditions under which persons or any class of persons liable to military service under this Act may be excused from being called out or embodied;

(*e*) prescribe the military training to be undergone by persons liable to military training under section 6 but not to military service under section 7;

(*f*) prescribe the rates of pay for, and provide for the grant of allowances to, persons liable to perform military service under this Act;

(*g*) prescribe for any military area which is a railway area or for any area beyond the limits of British India the authorities which shall be deemed respectively to be the Local Government and the District Magistrate for all or any of the purposes of this Act; and

(*h*) provide for any other matter which under this Act is to be or may be prescribed.

(*3*) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(*5*) All rules made under this section shall be published in the Gazette of India, and on such publication shall have effect as if enacted in this Act.

Power to make regulations.

31. The Commander-in-Chief of His Majesty's forces in India may make regulations consistent with this Act and the rules made thereunder providing generally for details connected with the organisation and personnel of the Auxiliary Force, India, and for the duties, equipment, military training, allowances and leave of enrolled persons.

[1] For notification constituting certain corps and units, *see* the List of General Statutory Rules and Orders.

[2] For notification publishing such rules, ***see ibid.***

V of 1898.

32. For the purposes of sections 128, 130 and 131 of the [1]Code of Criminal Procedure, 1898, all officers, non-commissioned officers and men liable to perform military service under this Act who have been appointed to a corps or unit shall be deemed to be officers, non-commissioned officers and soldiers, respectively, of His Majesty's Army. Certain persons subject to this Act to be deemed part of His Majesty's Army for certain purposes.

33. Save as otherwise provided by section 27, no offence under this Act shall be tried save by a Court not inferior to that of a Presidency Magistrate or a Magistrate of the first class. Trial of offences.

34. No enrolled person shall be liable to pay any municipal or other tax in respect of a horse, bicycle, motor-bicycle, motor car or other means of conveyance which he is authorised by a general or special order of the competent military authority to maintain in his capacity as a member of the Auxiliary Force, India. Exemption from local taxation.

XI of 1878.

35. In section 1 of the [2]Indian Arms Act, 1878, for the words and figures "a volunteer enrolled under the Indian Volunteers Act, 1869," the words and figures "a member of either of the forces constituted by the Indian Territorial Force Act, 1920, or the Auxiliary Force Act, 1920," and for the word "volunteer" the word "member," shall be substituted. Amendment of section 1, Act XI of 1878.

36. On and from the date on which this Act comes into force, the enactments mentioned in Schedule II shall be repealed to the extent specified in the fourth column thereof. Repeals.

SCHEDULE I.

(See sections 9, 11, 12, and 15.)

TRAINING.

1. Preliminary—	
(*a*) for infantry	32 days, and the annual musketry course as laid down in regulations.
(*b*) for other branches . . .	40 days, and the annual musketry or gun course as laid down in regulations.
2. Periodical—	
(1) Active Class—	
(*a*) for infantry	16 days in each training year, and the annual musketry course as laid down in regulations.
(*b*) for other branches . . .	20 days in each training year, and the annual musketry or gun course as laid down in regulations.

[1] General Acts, Vol. V.
[2] General Acts, Vol. II.

SCHEDULE I—*contd.*

(2) First (A) Class Reserve—	
(*a*) for infantry	6 days in each training year, and the annual musketry course as laid down in regulations.
(*b*) for other branches . . .	10 days in each training year, and the annual musketry or gun course as laid down in regulations.
(3) Second (B) Class Reserve—	
(*a*) for infantry . . .	The annual musketry course as laid down for this Class in regulations.
(*b*) for other branches . . .	

NOTE (*cf.* section 15).—A day consists of four hours of actual military drill or instruction and may be made up of fractions of a day not more than four in number.

SCHEDULE II.

ENACTMENTS REPEALED.

(*See section 36.*)

Year.	No.	Short title.	Extent of repeal.
1869	XX	The Indian Volunteers Act, 1869.	The whole.
1891	XII	The Amending Act, 1891 .	So much of the Second Schedule as relates to the Indian Volunteers Act, 1869.
1896	X	The Indian Volunteers Act Amendment Act, 1896.	The whole.
1909	V	The Amending (Army) Act, 1909.	So much of the Schedule as relates to the Indian Volunteers Act, 1869.
,,	VI	The Indian Volunteers (Amendment) Act, 1909.	The whole.
1915	I	The Emergency Legislation Continuance Act, 1915.	So much of the Schedule as relates to the Indian Volunteers Ordinance, 1914.
1917	III	The Indian Defence Force Act, 1917.	The whole.
1918	VIII	The Indian Defence Force (Amendment) Act, 1918.	The whole.
,,	XXI	The Indian Defence Force (Foreign Service) Amendment Act, 1918.	The whole.
1919	VII	The Indian Defence Force (Amendment) Act, 1919.	The whole.

PART II.

THE UNREPEALED GENERAL ACTS

OF THE

INDIAN LEGISLATURE.

ACT No. I OF 1921.[1]

[*2nd March, 1921.*]

An Act to amend the Indian Tea Cess Act, 1903.

IX of 1903. WHEREAS it is expedient to amend the [2]Indian Tea Cess Act, 1903; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Tea Cess (Amendment) Act, 1921.

Amendment of section 3, Act IX of 1903. IX of 1903. **2.** In section 3 of the [2]Indian Tea Cess Act, 1903, for the words " one-quarter of a pie per pound " the words " eight annas per hundred pounds " shall be substituted.

ACT No. II OF 1921.[3]

[*27th March, 1921.*]

An Act to determine the salary of the Deputy-President of the Legislative Assembly.

WHEREAS it is provided by sub-section (*5*) of section 63-C of the Government of India Act that the Deputy-President of the Legislative Assembly shall receive such salary as may be determined by Act of the Indian Legislature; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Legislative Assembly (Deputy-President's Salary) Act, 1921.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 9.
[2] General Acts, Vol. V.
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 7.

Salary of Deputy-President.

2. There shall be paid to the Deputy-President of the Legislative Assembly, in respect of any period during which he is engaged on work connected with the business of the said Assembly, a salary calculated at the rate of one thousand rupees *per mensem*.

Decision in case of doubt.

3. If any question arises whether during any period the Deputy-President was engaged on work connected with the business of the Legislative Assembly, the question shall be referred for decision to the President of the said Assembly, and his decision shall be final.

ACT No. III OF 1921.[1]

[*27th March, 1921.*]

An Act further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the [2]Code of Civil Procedure, 1908; It is hereby enacted as follows:— V of 1908.

Short title.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1921.

Amendment of section 55, Act V of 1908.

2. (*1*) In sub-section (*3*) of section 55 of the [2]Code of Civil Procedure, 1908, for the words "will be discharged" the words "may be discharged" shall be substituted. V. of 1908.

(*2*) In sub-section (*4*) of the same section, for the words "shall release" the words "may release" shall be substituted.

ACT No. IX OF 1921.[3]

[*27th March, 1921.*]

An Act to validate certain indentures transferring properties formerly held by certain Enemy Missions in Trustees, and for the incorporation of such Trustees and for other purposes.

WHEREAS the Governor General in Council, in exercise of the powers conferred by sections 7 and 12 of the [4]Enemy Trading Act, 1916, vested the properties both moveable and immoveable in British India of the Leipzig Evangelical Lutheran Mission, Madras and Burma, the X of 1916.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 2.
[2] General Acts, Vol. VI.
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 60.
[4] General Acts, Vol. VIII.

Schleswig Holstein Evangelical Lutheran Mission, Madras, the Hermannsburg Evangelical Lutheran Mission, Madras, the Basel Mission, Madras, Bombay and Coorg, the Gossner Evangelical Lutheran Mission, United Provinces and Bihar and Orissa, the German Evangelical Lutheran Mission, Bihar and Orissa and Assam, and a religious association in Assam styled the Sisters of the Divine Saviour, in certain Custodians of Enemy Property, and by order directed the said Custodians to transfer the properties thereby respectively vested in them to Boards of Trustees on certain trusts which the said Custodians accordingly purported to do by the several indentures, particulars of which are given in the Schedule hereto annexed; and

WHEREAS the properties comprised in the several indentures have by diverse mesne appointments become vested in the present Trustees of those indentures; and

WHEREAS doubts have risen and may arise as to the validity of certain matters in connection with the above-mentioned transfers; and

WHEREAS it is expedient to terminate such doubts and to constitute the several bodies of Trustees bodies corporate in order that the intention of the said transfers may be fully carried out;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Enemy Missions Act, 1921.

Incorporation of Trustees.

2. (*1*) Each body of persons whose names are set out in the fourth column of the Schedule, and the predecessors in office of those persons shall be deemed to have been validly appointed the trustees of the indenture or indentures, as the case may be, described in the Schedule opposite the names of the persons comprising that body, and each such body of persons, together with the successors in office of those persons, is hereby constituted a body corporate with perpetual succession and a common seal, and may sue and be sued by the corporate name given to it in the fifth column of the Schedule.

(*2*) For the purposes of the appointment of the successors of the persons named in the fourth column of the Schedule in their office as such trustees, the provisions of the [1]Indian Trusts Act, 1882, shall be deemed to apply, and appointments of any trustees which are required to be made by the National Missionary Council of India shall be sufficiently made if made by writing under the hand of the Chairman of that body.

II of 1882.

Validation of indentures, etc.

3. Notwithstanding anything contained in any enactment or rule of law to the contrary, the indentures described in the Schedule are hereby declared to have been validly made and the properties respectively

[1] General Acts, Vol. III.

transferred, or purporting to be transferred, thereby shall be deemed to have been duly transferred by the said indentures, and all acts or things heretofore done under the said indentures are hereby validated and confirmed, and every obligation imposed or purporting to be imposed on any person mentioned in any of the said indentures shall be binding in law on the person named therein whether such person is or is not a party to such indenture, and the Trustees referred to in sub-section (*l*) of section 2 shall have power, in conformity with the indentures of which they are respectively trustees, to transfer or otherwise deal with the properties comprised in those indentures.

THE SCHEDULE.

(See section 2.)

Particulars of Indenture and present Trustees thereof.

1	2	3	4	5
Date.	Parties.	Short effect.	Name and description of the Trustees of each Indenture at the date of the passing of this Act.	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act.
26th January 1920. Registered at Madras on 28th June 1920, being Serial No. 2036 of 1920 in Registration Book 1 of the office of the Registrar of Madras, Chingleput.	Daniel Chamier, Custodian of Enemy Property, Madras and Coorg (therein referred to as the Custodian) of the first part and Henry Reginald Pate, Arthur Davis, the Reverend William Meston, the Hon'ble Mr. Muthiah David Devadoss Avergal and the Reverend Duncan Gordon MacNaughton Leith (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the Madras Presidency and Coorg, formerly belonging to or held in Trust for the Basel Mission, the Leipzig Evangelical Lutheran Mission, the Schleswig Holstein Evangelical Lutheran Mission and the Hermannsburg Evangelical Lutheran Mission.	John Anderson Thorne, I.C.S., Secretary to the Board of Revenue (Land Revenue), Madras. Paul Appaswami, Judge of the Court of Small Causes, Madras. Muthiah David Devadoss, Barrister-at-Law, Madras. Duncan Gordon MacNaughton Leith, Secretary, German Missions' Committee of the National Missionary Council. Anthony Watson Brough of the London Mission, Erode, Madras.	The Mission Trust of Southern India.
31st March 1920. Registered at Madras on 5th August 1920, being Serial No. 2197 of 1920 in Registration Book 1 of the office of the Registrar of Madras, Chingleput.	Harold Charles Barnes Mitchell, Custodian of Enemy Property, Bombay (therein referred to as the Custodian) of the first part and John Anderson Thorne, Arthur Davies, the Reverend William Meston, the Hon'ble Mr. Muthiah David Devadoss and the Reverend Duncan Gordon MacNaughton Leith (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the Bombay Presidency, formerly belonging to or held in Trust for the Basel Mission.		

THE SCHEDULE—*contd.*

Particulars of Indenture and present Trustees thereof.

1	2	3	4	5
Date.	Parties.	Short effect.	Name and description of the Trustees of each Indenture at the date of the passing of this Act.	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act.
13th October 1919. Registered at Ghazipur on 23rd January 1920, being Serial No. 2 of 1920 in Registration Book 1 of the office of the Registrar of Ghazipur.	Shaikh Makbul Hosain, Custodian of Enemy Property, United Provinces (therein referred to as the Custodian) of the first part and the Hon'ble Mr. B. Foley, W. B. Heycock, the Reverend J. Z. Hodge, Professor S. C. Mukerji, the Reverend G. J. Dann (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the United Provinces, formerly belonging to or held in Trust for the Gossner Evangelical Lutheran Mission.	Frank Frederick Lyall, Commissioner of Chota Nagpur. John Tarlton.	The Mission Trust of Northern India.
13th October 1919. Registered at Ranchi on 4th December 1919, being Serial No. 4390 of 1919 in Registration Book 1 of the office of the District Sub-Registrar, Ranchi.	Patrick William Murphy, Custodian of Enemy Property, Bihar and Orissa (therein referred to as the Custodian) of the one part and Blanchard Foley, William Bissil Heycock, the Reverend John Zimmerman Hodge, Professor S. C. Mukerji and the Reverend George James Dann (therein referred to as the Trustees) of the other part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the Province of Bihar and Orissa, formerly belonging to or held in Trust for the German Evangelical Lutheran Mission.	Whitty, Deputy Commissioner of Ranchi. Herbert Anderson, Secretary, National Missionary Council. George James Dann, Missionary, Patna.	
1st October 1919. Registered at Dibrugarh on 29th January 1920, being Serial No. 42 of 1920 in Registration Book 1 of the office of the Sub-Registrar, Dibrugarh.	Stephen Nairne Mackenzie, Custodian of Enemy Property, Assam (therein referred to as the Custodian) of the first part and the Hon'ble Mr. Blanchard Foley, William Bissil Heycock, the Reverend John Zimmerman Hodge, Professor S. C. Mukerji and the Reverend G. J. Dann (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in Assam, formerly belonging to or held in Trust for the German Evangelical Lutheran Mission.	Satish Chandra Mukerji, Professor, Serampore College.	

27th November 1919. Registered at Rangoon on 13th February 1920, being Serial No. 206 of 1920 in Registration Book 1 of the office of the Sub-Registrar, Rangoon.	John Cormack Mackenzie, Custodian of Enemy Property, Burma (therein referred to as the Custodian) of the first part and John Cormack Mackenzie, Herbert Hoddy Mackney, Frank Dennison Phinney, the Reverend Clarence Eugene Olmstead, the Reverend Vickerman Nicholson Kemp (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in Burma, formerly belonging to or held in Trust for the Leipzig Evangelical Lutheran Mission..	John Cormack Mackenzie, Collector of Rangoon. Ernest Godfrey Pattle, District Magistrate of Rangoon. Frank Dennison Phinney, Superintendent, American Baptist Mission Press, Rangoon. D. P. Dural Raj, Saint Gabriels, S. P. G. Mission, Rangoon. C. H. Riggs, Principal, Methodist Boys' High School, Rangoon.	The Burma Mission Trust.
30th April 1920. Registered at Dibrugarh on 23rd June 1920, being Serial No. 453 of 1920 in Registration Book 1 of the office of the Sub-Registrar, Dibrugarh.	Gerald Courtenay Kerwood, Custodian of Enemy Property, Assam (therein referred to as the Custodian) of the first part and the Very Reverend Paul Lefebvre, John McSwiney, Robert Eustace Witham (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trust therein mentioned of all property moveable or immoveable in Assam, formerly belonging to or held in Trust for the religious association or covenanted order called the Sisters of the Divine Saviour.	The Very Reverend Paul Lefebvre, Vice-Administrator of the Prefecture Apostolic of Assam. John McSwiney, Director of Land Records and Agriculture, Assam. Robert Eustace Witham, Manager, [1][Budla Beta] Tea Estate, Lakhimpur, Assam.	The Assam Roman Catholic Mission Trust.

[1] These words were substituted for the word " Budla " by s. 2 and Schedule I of the Repealing and Amending Act, 1923 (XI of 1923), *infra*.

ACT No. X OF 1921.[1]

[*29th September, 1921.*]

An Act further to amend the Indian Marine Act, 1887.

WHEREAS it is expedient further to amend the [2]Indian Marine Act, 1887; It is hereby enacted as follows:— XIV of 1887.

Short title. **1.** This Act may be called the Indian Marine (Amendment) Act, 1921.

Amendment of section 52 (*1*), Act XIV of 1887. **2.** In the proviso to sub-section (*1*) of section 52 of the [2]Indian Marine Act, 1887 (hereinafter referred to as the said Act), for the words "by, or with the previous sanction of, the Governor General in Council," the words "by the Governor General in Council or by the Director of Marine" shall be substituted. XIV of 1887.

Amendment of section 66 (*2*), Act XIV of 1887. **3.** In sub-section (*2*) of section 66 of the said Act, the words "with the previous sanction of the Governor General in Council" shall be omitted.

ACT No. XI OF 1921.[3]

[*29th September, 1921.*]

An Act further to amend the Indian Works of Defence Act, 1903.

WHEREAS it is expedient further to amend the [4]Indian Works of Defence Act, 1903; It is hereby enacted as follows:— VII of 1903.

Short title. **1.** This Act may be called the Indian Works of Defence (Amendment) Act, 1921.

Amendment of section 2, Act VII of 1903. **2.** In section 2 of the [4]Indian Works of Defence Act, 1903 (hereinafter referred to as the said Act), for clauses (*c*) and (*d*), the following clauses shall be substituted, namely:— VII of 1903.

"(*c*) the expression 'District' means one of the Districts into which India is, for military purposes for the time being, divided; it includes a Brigade area which does not form part of any District, and any area which the Governor

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 122.
[2] General Acts, Vol. IV.
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 123.
[4] General Acts, Vol V.

General in Council may, by notification in the Gazette of India, declare to be a District for all or any of the purposes of this Act;

(*d*) the expression 'General Officer Commanding the District' means the officer for the time being in command of the forces in a District."

3. In section 7 of the said Act— Amendment of section 7, Act VII of 1903.

(*a*) in sub-clauses (*i*) and (*iv*) of clause (*a*), in the first proviso to sub-clause (*i*) of clause (*b*), and in sub-clause (*ii*) of clause (*b*), for the words "General Officer Commanding the Division," the words "General Officer Commanding the District" shall be substituted; and

(*b*) in the first proviso to sub-clause (*ii*) of clause (*a*) and in the second proviso to sub-clause (*i*) of clause (*b*), for the words "General Officer Commanding the Division, District or Brigade," the words "General Officer Commanding the District" shall be substituted.

V of 1909. **4.** So much of the Schedule to the [1]Amending (Army) Act, 1909, as relates to the said Act, is hereby repealed. Repeal.

ACT No. XII OF 1921.[2]

[*29th September, 1921.*]

An Act further to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient further to amend the [3]Negotiable Instruments Act, 1881; It is hereby enacted as follows:—

XXVI of 1881.

1. This Act may be called the Negotiable Instruments (Amendment) Act, 1921. Short title.

XXVI of 1881. **2.** In sections 63 and 83 of the [3]Negotiable Instruments Act, 1881 (hereinafter referred to as the said Act), for the word "twenty-four," the word "forty-eight" shall be substituted. Amendment of sections 63 and 83, Act XXV of 1881.

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[1] This Act has been repealed by s. 39 and Schedule of the Cantonments (House-Accommodation) Act, 1923 (VI of 1923), *infra*.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 119.

[3] General Acts, Vol. III.

Amendment of section 75A, Act XXVI of 1881.

3. In section 75A of the said Act for the words " for payment," the words " for acceptance or payment " shall be substituted.

ACT No. XIII OF 1921.[1]

[*29th September, 1921.*]

An Act further to amend the Carriers Act, 1865, in order to empower the Governor General in Council to make by notification additions to the Schedule to that Act, and to free a common carrier from liability under that Act for loss or damage, arising from the negligence of himself or of any of his agents or servants, in respect of any property which, being of the value of over one hundred rupees and of the description contained in the Schedule to that Act, has not been declared in accordance with the provisions of section 3.

WHEREAS it is expedient further to amend the [2]Carriers Act, 1865, III of 1865. in manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Carriers (Amendment) Act, 1921.

Amendment of section 8, Act III of 1865.

2. In section 8 of the Carriers Act, 1865 (hereinafter called the said Act),—

(1) the words " negligence or " shall be omitted, and

(2) after the words " agents or servants," the following words shall be added, namely:—

" and shall also be liable to the owner for loss or damage to any such property, other than property to which the provisions of section 3 apply and in respect of which the declaration required by that section has not been made, where such loss or damage has arisen from the negligence of the carrier or any of his agents or servants."

Insertion of new section 11 in Act III of 1865. Power to Governor General in Council to add to the Schedule.

3. After section 10 of the said Act, the following section shall be added, namely:—

" 11. The Governor General in Council may, by notification in the Gazette of India, add to the list of articles contained in the Schedule to this Act, and the Schedule shall, on the issue of any such notification, be deemed to have been amended accordingly."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 120.
[2] General Acts, Vol. I.

ACT No. XIV OF 1921.[1]

[*29th September, 1921.*]

An Act to provide for the levy of customs-duty on lac exported from British India.

WHEREAS it is expedient to provide for the creation of a Fund to be expended for the promotion of the improvement of methods of cultivation and manufacture of lac in India;

And whereas for this purpose it is expedient to levy customs-duty on lac produced in India and exported from British India;

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Lac Cess Act, 1921.

(*2*) It extends to the whole of British India, except Aden.

Definitions.

2. In this Act—

(*a*) "The Lac Association" means the Indian Lac Association for Research, registered as a society on the twelfth day of September, 1921, under the provisions of the [2]Societies Registration Act, 1860;

XXI of 1860.

(*b*) "Collector" means, in reference to lac exported by sea, a Customs-collector as defined in clause (*c*) of section 3 of the [3]Sea Customs Act, 1878, and, in reference to lac passing out of British India by land, the Collector of the district;

VIII of 1878.

(*c*) "lac" includes any form of manufactured or unmanufactured lac other than refuse lac;

(*d*) "lac cess" means the customs-duty imposed by section 3 of this Act and by section 5 of the [4]Indian Tariff Act, 1894.

VIII of 1894.

Imposition of duty on exports of lac and refuse lac.

3. On and from the 1st January, 1922, a customs-duty shall be levied and collected on all lac and refuse lac produced in India and exported from any customs-port to any port beyond the limits of British India or to Aden at the rate of 4 annas per maund in the case of lac, and 2 annas per maund in the case of refuse lac, or at such lower rate as the Governor General in Council may, on the recommendation of the Lac Association by notification in the Gazette of India, prescribe.

Application of proceeds of lac cess.

4. (*1*) At the close of each month, or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the lac cess, after deducting the expenses of collection (if any), to the Lac Association.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 134.
[2] General Acts, Vol. I.
[3] General Acts, Vol. II.
[4] General Acts, Vol. IV.

(*2*) The said proceeds and any other monies received by the Lac Association in this behalf shall be applied by the Association towards meeting the cost of such measures as the Association may consider it advisable to take for the promotion of improved methods of cultivation and manufacture of lac by means of scientific research, experimental cultivation and the dissemination of knowledge, or by such other means, as it may be expedient to employ, for testing the value of the results obtained by such research.

Keeping and auditing of accounts.

5. (*1*) The Lac Association shall keep accounts of all monies received and expended under section 4.

(*2*) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Governor General in Council; and such auditors may disallow any item which has, in their opinion, been expended out of any money so received otherwise than as directed by or under this Act.

(*3*) If any item is disallowed, an appeal shall lie to the Governor General in Council, whose decision shall be final.

Power to make rules.

6. (*1*) The Governor General in Council may, after previous publication, make rules[1] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

(*a*) the levy and payment of the lac cess; and

(*b*) the form of accounts to be kept and the publication of an abstract of such accounts with the reports of the auditors thereon.

(*3*) All such rules shall be published in the Gazette of India.

Time during which sections 2 to 6 are to remain in force.

7. Sections 2 to 6 shall remain in force only until the 31st day of December, 1926:

Provided that the Governor General in Council may, on the recommendation of the Lac Association, and with the previous consent of the Indian Legislature, declare, by notification in the Gazette of India, that the said sections shall continue in force for any further period specified in such notification:

Provided also that, if at any time the Lac Association is dissolved, the said sections shall cease to be in force from the date of such dissolution.

Disposal of surplus proceeds of lac cess.

8. If any proceeds of the lac cess or any monies, so received as aforesaid, remain unexpended, when sections 2 to 6 cease to be in force, they shall, notwithstanding anything contained in any law for the time being in force, vest in His Majesty.

[1] For notification publishing such rules, *see* List of General Statutory Rules and Orders.

ACT No. XV OF 1921.[1]

[*29th September, 1921.*]

An Act further to amend the Indian Post Office Act, 1898.

WHEREAS it is expedient further to amend the [2]Indian Post Office Act, 1898; It is hereby enacted as follows:— VI of 1898.

1. This Act may be called the Indian Post Office (Amendment) Act, 1921. Short title.

2. In section 24 of the [2]Indian Post Office Act, 1898 (hereinafter referred to as the said Act), the third proviso shall be omitted. Amendment of section 24, Act VI of 1898. VI of 1898.

3. After section 24 of the said Act, the following section shall be inserted, namely:— Insertion of new section 24A in Act VI of 1898.

"24A. The Governor General in Council may, by general or special order, empower any officer of the Post Office, specified in such order, to deliver any postal article, received from beyond the limits of British India and suspected to contain anything liable to duty, to such Customs authority as may be specified in the said order, and such Customs authority shall deal with such article in accordance with the provisions of the [3]Sea Customs Act, 1878, or of any other law for the time being in force." Power to deliver such articles to Customs authority. VII of 1878.

4. In section 67 of the said Act, after the words "this Act," the words "or of any other Act for the time being in force" shall be inserted. Amendment of section 67, Act VI of 1898.

ACT No. XVI OF 1921.[4]

[*29th September, 1921.*]

An Act further to amend the Indian Penal Code.

WHEREAS it is expedient further to amend the [5]Indian Penal Code; It is hereby enacted as follows:— XLV of 1860.

1. This Act may be called the Indian Penal Code (Amendment) Act, 1921. Short title.

2. In sections 121 and 122 of the [5]Indian Penal Code (hereinafter referred to as the said Code), for the words "and shall forfeit all his Amendment of sections 121 and 122, XLV of 1860.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 121.
[2] General Acts, Vol. V.
[3] General Acts, Vol. II.
[4] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 55; and for Report of Select Committee, *see ibid*, 1921, Pt. V, p. 125.
[5] General Acts, Vol. I.

Indian Penal Code.

property," the words " and shall also be liable to fine " shall be substituted.

Amendment of section 121A, Indian Penal Code.

3. In section 121A of the said Code, after the words " ten years," the words " and shall also be liable to fine " shall be inserted.

Repeal of sections 61 and 62, Indian Penal Code.

4. Sections 61 and 62 of the said Code are hereby repealed.

ACT No. XVII OF 1921.[1]

[30th September, 1921.]

An Act further to amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient further to amend the [2]Cattle-trespass Act, 1871; It is hereby enacted as follows:— I of 1871.

Short title and commencement.

1. (*1*) This Act may be called the Cattle-trespass (Amendment) Act, 1921.

(*2*) This section shall come into force at once.

(*3*) The rest of the Act shall come into force in any Province or part thereof on such date[3] as the Local Government may, by notification in the local official Gazette, appoint.

Substitution of new section for section 12, Act I of 1871.

2. For section 12 of the [2]Cattle-trespass Act, 1871, the following section shall be substituted, namely:— I of 1871.

Fines for cattle impounded

" 12. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine in accordance with the scale for the time being prescribed by the Local Government in this behalf by notification in the official Gazette. Different scales may be prescribed for different local areas.

All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government may direct.

A list of the fines and of the rates of charge for feeding and watering cattle shall be posted in a conspicuous place on or near to every pound."

Repeal.

3. Section 5 of the [4]Cattle-trespass Act (1871) Amendment Act, 1891, is hereby repealed. I of 1891.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 118.
[2] General Acts, Vol. II.
[3] In Burma from 18th June 1923, *see* Burma Gazette, 1923, Pt. I, p. 789.
[4] General Acts, Vol. IV.

ACT No. XVIII OF 1921.[1]

[*5th October, 1921.*]

An Act to facilitate the enforcement in British India of Maintenance Orders made in other parts of His Majesty's Dominions and Protectorates and *vice versâ*.

WHEREAS it is expedient to facilitate the enforcement in British India of Maintenance Orders made in other parts of His Majesty's Dominions and Protectorates and *vice versâ;* It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Maintenance Orders Enforcement Act, 1921.

(*2*) It extends to the whole of British India, including the Sonthal Parganas and British Baluchistan.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

"Court of summary jurisdiction" means the Court of a Chief Presidency Magistrate or of a District Magistrate;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the part of His Majesty's Dominions in which the maintenance order is made;

"maintenance order" means a decree or order, other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

"prescribed" means prescribed by rules made under this Act;

"proper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies; and

"reciprocating territory" means any part of His Majesty's Dominions outside British India in respect of which this Act for the time being applies.

Reciprocal arrangements.

3. (*1*) If the Governor General in Council is satisfied that provisions have been made by the Legislature of any part of His Majesty's Dominions for the enforcement within that part of maintenance orders made by Courts in British India, the Governor General in Council may,

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 5; and for Report of Select Committee, *see ibid*, 1921, Pt. V, p. 127.

by notification in the Gazette of India, [1]declare that this Act applies in respect of that part of His Majesty's Dominions and thereupon it shall apply accordingly.

(*2*) The Governor General in Council may, by like notification, declare that this Act applies in respect of any British protectorate, or in respect of any State in India, and where such a declaration has been made, this Act shall apply as if such protectorate or State were a reciprocating territory.

Registration in British India of maintenance orders made in other parts of His Majesty's Dominions.

4. (*1*) Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Governor General, the Governor General in Council shall send a copy of the order to the prescribed officer of a Court in British India for registration, and, on receipt thereof, the order shall be registered in the prescribed manner.

(*2*) The Court in which an order is to be so registered as aforesaid shall, if the Court by which the order was made was, in the opinion of the Governor General in Council, a Court of superior jurisdiction, be a High Court, and, if the Court was not, in his opinion, a Court of superior jurisdiction, be a Court of summary jurisdiction.

Transmission of maintenance orders made in British India.

5. Where a Court in British India has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory, the Court shall send to the Governor General in Council, for transmission to the proper authority of that territory, a certified copy of the order.

Power of Summary Courts to make provisional maintenance orders against persons resident in His Majesty's Dominions outside British India.

6. (*1*) Where application is made to a Court of summary jurisdiction in British India for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

(*2*) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by, him.

(*3*) Where such an order is made, the Court shall send to the Governor General in Council, for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made

[1] For such declaration in respect of England and Ireland, *see* Notification No. F.-120, dated 6th March 1922, in Gazette of India, 1922, Pt. I, p. 228; in respect of Western Australia, *see* Notification No. F.-369-23, dated 11th June, 1923, in Gazette of India, 1923, Pt. I, p. 545.

is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(*4*) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that Court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(*5*) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case the depositions shall be sent to the Governor General in Council and dealt with in like manner as the original depositions.

(*6*) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction to vary or rescind that order:

Provided that, on the making of a varying or rescinding order, the Court shall send a certified copy thereof to the Governor General in Council for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of British India.

7. (*1*) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in British India, and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Governor General, and it appears to the Governor General in Council that the person against whom the order has been made is resident in British India, the Governor General in Council may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(*2*) A summons issued under sub-section (*1*) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(*3*) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(*4*) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in British India, confirm the order either without modification or with such modifications as to the Court after hearing the evidence may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(*5*) If the person to whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Governor General in Council for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(*6*) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for that purpose send a certified copy of the record to the Governor General in Council for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

Enforcement of maintenance orders.

8. (*1*) Subject to the provisions of this Act, where an order has been registered under this Act in a High Court, the order shall, from the date of such registration, be of the same force and effect, and all proceedings may be taken thereon as if it had been an order originally obtained in the High Court in the exercise of its civil jurisdiction, or in such Civil Court subordinate to that High Court as may be named by the High Court in this behalf, and that Court shall have power to enforce the order accordingly.

(*2*) A Court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act, and the officers of such Court, shall have such powers and

perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A Court in registering or confirming an order for maintenance in accordance with the provisions of this Act shall direct that the charges for the transmission to the Court, from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Act, any document purporting to be signed by a judge or officer of a Court outside British India shall, until the contrary is proved, be deemed to have been so signed without proof of the signature of judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act.

Rule-making power.

12. The Governor General in Council may make rules for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed.

ACT No. XIX OF 1921.[1]

[*5th October, 1921.*]

An Act further to amend the Land Acquisition Act, 1894.

I of 1894.

WHEREAS it is expedient further to amend the [2]Land Acquisition Act, 1894; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Land Acquisition (Amendment) Act, 1921.

I of 1894.

Amendment of section 26, Act I of 1894.

2. Section 26 of the [2]Land Acquisition Act, 1894 (hereinafter referred to as the said Act), shall be renumbered 26 (*1*), and to the said section the following sub-section shall be added, namely:—

"(*2*) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 62.
[2] General Acts, Vol. IV.

within the meaning of section 2, clause (*2*), and section 2, clause (*9*), respectively, of the [1]Code of Civil Procedure, 1908." V of 1908.

Substitution of new section for section 54, Act I of 1894.

3. For section 54 of the said Act, the following section shall be substituted, namely:—

"54. Subject to the provisions of the [1]Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof." V of 1908.

ACT No. I OF 1922.[2]

[*25th January, 1922.*]

An Act further to amend the Indian Electricity Act, 1910.

WHEREAS it is expedient further to amend the [3]Indian Electricity Act, 1910; It is hereby enacted as follows:— IX of 1910.

Short title.

1. This Act may be called the Indian Electricity (Amendment) Act, 1922.

Amendment of section 2, Act IX of 1910.

2. For clause (*l*) of section 2 of the [3]Indian Electricity Act, 1910 (hereinafter referred to as the said Act), the following shall be substituted, namely:— IX of 1910.

"(*l*) 'service line' means any electric supply line through which energy is, or is intended to be, supplied by a licensee—

(*i*) to a single consumer either from a distributing main or immediately from the licensee's premises, or

(*ii*) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main."

Amendment of section 3, Act IX of 1910.

3. In sub-clause (*ii*) of clause (*a*) of sub-section (*2*) of section 3 of the said Act, for the words "General Officer Commanding the Division," the words "Director of Military Works" shall be substituted.

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[1] General Acts, Vol. VI.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 99; and for Report of Joint Committee, *see ibid*, 1921, Pt. V, p. 140.
[3] General Acts, Vol. VII.

4. In section 17 of the said Act,— Amendment of section 17, Act IX of 1910.

(*a*) in sub-section (*1*), for the words "not being service lines immediately attached or intended to be immediately attached to a distributing main," the words "not being either service lines" shall be substituted; and

(*b*) in sub-section (*2*), after the word "laying," the words "or placing" shall be inserted, and the words "underground" and "immediately attached or intended to be immediately attached to a distributing main" shall be omitted.

5. In section 18 of the said Act,— Amendment of section 18, Act IX of 1910.

(*a*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) Where any tree standing or lying near an aerial line, or where any structure or other object which has been placed or has fallen near an aerial line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy or the accessibility of any works, a Magistrate of the first class or, in a Presidency-town or Rangoon, the Commissioner of Police, may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit"; and

(*b*) after sub-section (*4*), the following *Explanation* shall be added, namely:—

"*Explanation.*—For the purposes of this section, the expression 'tree' shall be deemed to include any shrub, hedge, jungle-growth or other plant."

6. After section 19 of the said Act, the following section shall be inserted under the heading "*Supply,*" namely:— Insertion of new section 19A in Act IX of 1910.

"19A. For the purposes of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed." Point where supply is delivered.

7. In section 20 of the said Act,— Amendment of section 20, Act IX of 1910.

(*a*) in clause (*c*) of sub-section (*1*), after the word "supply-lines," the word "meters," shall be inserted; and

(*b*) after sub-section (*2*), the following sub-section shall be added, namely:—

"(*3*) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises in pursuance of the provisions of sub-section (*1*) or sub-section (*2*), or, when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable

facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer."

Amendment of section 21, Act IX of 1910.

8. In section 21 of the said Act, sub-section (*2*) shall be re-numbered (*4*), and after sub-section (*1*), the following sub-sections shall be inserted, namely:—

"(*2*) Subject to the provisions of sub-section (*1*), a licensee may, with the previous sanction of the Local Government, given after consulting the local authority, where the licensee is not the local authority, make conditions not inconsistent with this Act or with his licence or with any rules made under this Act, to regulate his relations with persons who are or intend to become consumers, and may with the like sanction given after the like consultation add to or alter or amend any such conditions; and any conditions made by a licensee without such sanction shall be null and void:

Provided that any such conditions made before the 23rd day of January 1922 shall, if sanctioned by the Local Government on application made by the licensee before such date as the Local Government may, by general or special order, fix in this behalf, be deemed to have been made in accordance with the provisions of this sub-section.

(*3*) The Local Government may, after the like consultation, cancel any condition or part of a condition previously sanctioned under sub-section (*2*) after giving to the licensee not less than one month's notice in writing of its intention so to do."

Amendment of section 23, Act IX of 1910.

9. To section 23 of the said Act, the following sub-sections shall be added, namely:—

"(*3*) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer—

(*a*) by the actual amount of energy so supplied, or

(*b*) by the electrical quantity contained in the supply, or

(*c*) by such other method as may be approved by the Local Government.

(*4*) Any charges made by a licensee under clause (*c*) of sub-section (*3*) may be based upon, and vary in accordance with, any one or more of the following considerations, namely:—

(*a*) the consumer's load factor, or

(*b*) the power factor of his load, or

(*c*) his total consumption of energy during any stated period, or

(*d*) the hours at which the supply of energy is required."

10. In section 24 of the said Act,— Amendment of section 24, Act IX of 1910.

(*a*) the first paragraph ending with the words "but no longer" shall be re-numbered as sub-section (*1*), and, in that sub-section as re-numbered, for the words "other sum" where they first occur, the words "sum, other than a charge for energy," shall be substituted; and

(*b*) the proviso shall be re-numbered sub-section (*2*), and, in that sub-section as re-numbered, the words "provided that" shall be omitted, and to the sub-section the following proviso shall be added, namely:—

"Provided that the prohibition contained in this sub-section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the Electric Inspector of the amount of the licensee's charges or other sums in dispute or for the deposit of the licensee's further charges for energy as they accrue, and the consumer has failed to comply with such request."

11. In sub-section (*6*) of section 26 of the said Act, the words "on the basis of the previous supply" shall be omitted, and to the sub-section the following proviso shall be added, namely:— Amendment of section 26, Act IX of 1910.

"Provided that, before either a licensee or a consumer applies to the Electric Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do."

12. To the third proviso to section 27 of the said Act the following shall be added, namely:— Amendment of section 27, Act IX of 1910.

"unless the Local Government, after such inquiry as it thinks fit, considers that such consent has been unreasonably withheld."

13. In sub-section (*1*) of section 28 of the said Act, the first proviso and the word "also" in the second proviso shall be omitted. Amendment of section 28, Act IX of 1910.

14. In clause (*b*) of sub-section (*1*) of section 30 of the said Act,— Amendment of section 30, Act IX of 1910.

(*a*) in sub-clause (*ii*) for the figures "1881" the figures "1911" shall be substituted; and

(*b*) after sub-clause (*iii*), the following shall be inserted, namely:—

"or

(*iv*) to which the Local Government, by general or special order, declares the provisions of this sub-section to apply."

15. For sub-section (*1*) of section 33 of the said Act, the following sub-section shall be substituted, namely:— Amendment of section 33, Act IX of 1910.

"(*1*) If any accident occurs in connection with the generation, transmission, supply or use of energy in, or in connection with, any part of the electric supply-lines or other works of any person, and the accident results or is likely to have resulted in loss of life or personal injury,

such person shall give notice of the occurrence, and of any loss of life or personal injury actually occasioned by the accident, in such form and within such time and to such authorities as the Local Government may, by general or special order, direct."

Amendment of section 35, Act IX of 1910.

16. In section 35 of the said Act, sub-section (*3*) shall be omitted, and sub-section (*4*) shall be re-numbered (*3*), and in sub-section (*3*) as re-numbered, clauses (*a*), (*b*) and (*c*) shall be re-numbered (*b*), (*c*) and (*d*), respectively, and the following shall be inserted as clause (*a*), namely:—

"(*a*) determine the number of members of which any such Board shall be constituted and the manner in which such members shall be appointed ".

Amendment of section 36, Act IX of 1910.

17. To sub-section (*3*) of section 36 of the said Act, the words "or, if the Governor General in Council or the Local Government, as the case may be, by general or special order, so directs, to an Advisory Board" shall be added.

Amendment of section 37, Act IX of 1910.

18. In section 37 of the said Act,—

(*a*) in clause (*j*) of sub-section (*2*), the word "and" at the end shall be omitted, and after clause (*k*) of the same sub-section, the following shall be inserted, namely:—

"and

(*l*) provide for any matter which is to be or may be prescribed"; and

(*b*) sub-section (*3*) shall be re-numbered (*4*), and the following sub-section shall be inserted after sub-section (*2*), namely:—

"(*3*) Any rules made in pursuance of clause (*f*) or clause (*h*) of sub-section (*2*) shall be binding on the Crown."

Amendment of section 44, Act IX of 1910.

19. In section 44 of the said Act,—

(*a*) for the words "three hundred" and "thirty," the words "five hundred" and "fifty," respectively, shall be substituted;

(*b*) for the words "the existence of artificial means," the words "if it is proved that any artificial means exist" shall be substituted;

(*c*) for the words "shall, where," the words "and that" shall be substituted; and

(*d*) for the words "be *primâ facie* evidence," the words "it shall be presumed, until the contrary is proved," shall be substituted.

Amendment of section 51, Act IX of 1910.

20. In section 51 of the said Act, for the words "Governor General in Council" in both places where they occur, the words "Local Government" shall be substituted.

21. In clause (*a*) of sub-section (*1*) of section 53 of the said Act, for the words "the Secretary in the Public Works Department," the words "such officer as the Governor General in Council or the Local Government, as the case may be, may designate in this behalf" shall be substituted. Amendment of section 53, Act IX of 1910.

22. In section 55 of the said Act, after the word and figures "section 18," the words, figures and brackets "or section 34, sub-section (*2*)" shall be inserted. Amendment of section 55, Act IX of 1910.

23. In sub-clause (*1*) of clause VI of the Schedule to the said Act,— Amendment of clause VI of the Schedule to Act IX of 1910.

(*a*) after the word "where" where it first occurs, the words "after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced," shall be inserted;

(*b*) for the words "one hundred yards from any distributing main," the words "the area of supply" shall be substituted;

(*c*) after the words "within one month from the making of the requisition," the words "or within such longer period as the Electric Inspector may allow" shall be inserted;

(*d*) to clause (*d*) of the second proviso, the following words shall be added, namely:—

"but the licensee shall re-connect the supply with all reasonable speed on the cessation of the Act or default or both, as the case may be, which entitled him to discontinue it"; and

(*e*) in the fourth proviso—

(*i*) for the words "in the event of any requisition being made for a supply of energy from any distributing main of which," the words "if any requisition is made for a supply of energy and" shall be substituted; and

(*ii*) for the word "it" in clause (*a*), the words "the nearest distributing main" shall be substituted.

24. For clause VII of the Schedule to the said Act, the following shall be substituted, namely:— Substitution of new clause VII of the Schedule to Act IX of 1910.

"VII. The licensee shall, before commencing to lay down or place a service line in any street in which a distributing main has not already been laid down or placed, serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the service line so to be laid down or placed twenty-one days' notice stating that the licensee intends to lay down or place a service line, and intimating that, if within the said period the local authority or any five or more of such owners or occupiers require, in accordance with the Further provisions as to laying of service lines.

provisions of the licence, that a supply shall be given for any public lamps or to their premises, as the case may be, the necessary distributing main will be laid down or placed by the licensee at the same time as the service line."

Amendment of clause VIII of Schedule to Act IX of 1910.

25. In sub-clause (*1*) of clause VIII of the Schedule to the said Act,—

(*a*) after the word "where" the words "after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced" shall be inserted; and

(*b*) for the words "distance of one hundred yards from any distributing main," the words "area of supply" shall be substituted.

Amendment of clause X of Schedule to Act IX of 1910.

26. In clause X of the Schedule to the said Act,—

(*a*) the first part of the clause up to and including sub-clause (*c*) shall be omitted;

(*b*) the first proviso shall be re-numbered sub-clause (*1*), and in that sub-clause as re-numbered—

(*i*) the words "Provided, first, that" shall be omitted, and

(*ii*) for the words "so approved by the Local Government," the words, figures and brackets "approved by the Local Government in accordance with section 23, sub-section (*3*), clause (*c*), of the [1]Indian Electricity Act, 1910" shall be substituted; IX of 1910.

(*c*) the second proviso shall be re-numbered sub-clause (*2*), and from that sub-clause as re-numbered the words "Provided, secondly, that" shall be omitted; and

(*d*) the third proviso shall be re-numbered sub-clause (*3*), and from that sub-clause as re-numbered the words "Provided, thirdly, that," shall be omitted.

Amendment of clause XI of Schedule to Act IX of 1910.

27. In the first proviso to clause XI of the Schedule to the said Act,—

(*a*) the words "or is satisfied" shall be omitted; and

(*b*) for the words "may, after such inquiry (if any) as it thinks fit, make an order accordingly," the following shall be substituted, namely:—

"shall refer the matter to an Advisory Board and, if the Board recommends any alteration, may make an order in accordance with such recommendation."

[1] General Acts, Vol. VII.

28. After clause XI of the Schedule to the said Act, the following clause shall be inserted, namely:— Insertion of new clause XIA in Schedule to Act IX of 1910.

"XIA. A licensee may charge a consumer a minimum charge for energy of such amount and determined in such manner as may be specified by his licence, and such minimum charge shall be payable notwithstanding that no energy has been used by the consumer during the period for which such minimum charge is made." Minimum charges.

29. In clause XVI of the Schedule to the said Act,— Amendment of clause XVI of Schedule to Act IX of 1910.

(*a*) in sub-clause (*1*) for the words "and the approximate height above or depth," the words "and, in the case of underground works, the approximate depth" shall be substituted;

(*b*) for sub-clause (*2*) the following shall be substituted, namely:—

"(*2*) Every such plan shall be drawn to such scale as the Local Government may require: provided that no scale shall be required unless maps of the locality on that scale are for the time being available to the public"; and

(*c*) for sub-clause (*3*), the following shall be substituted, namely:—

"(*3*) Every such section shall be drawn to horizontal and vertical scales which shall be such as the Local Government may require."

ACT No. II OF 1922.[1]

[*25th January, 1922.*]

An Act further to amend the Indian Factories Act, 1911.

WHEREAS it is expedient further to amend the [2]Indian Factories Act, XII of 1911. 1911; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Factories (Amendment) Act, 1922. Short title, extent and commencement.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on the first day of July, 1922.

XII of 1911. **2.** In section 2 of the [2]Indian Factories Act, 1911 (hereinafter referred to as the said Act), Amendment of section 2, Act XII of 1911.

(*a*) in clause (*1*), for the word "fourteen" the word "fifteen" shall be substituted;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 90; and for Report of Joint Committee, *see ibid*, 1921, Pt. V, p. 167.
[2] General Acts, Vol. VII.

(*b*) for clause (*3*) the following clause shall be substituted, namely:—

"(*3*) 'factory' means—

(*a*) any premises wherein, or within the precincts of which, on any one day in the year not less than twenty persons are simultaneously employed and steam, water or other mechanical power or electrical power is used in aid of any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article; or

(*b*) any premises wherein, or within the precincts of which, on any one day in the year not less than ten persons are simultaneously employed and any such process is carried on, whether any such power is used in aid thereof or not which have been declared by the Local Government, by notification in the local official Gazette, to be a factory;

A declaration under clause (*b*) may be made in respect of any class of premises, or in respect of any particular premises";

(*c*) for clauses (*8*) and (*9*), the following clause shall be substituted, namely:—

"(*8*) 'week' means the period between midnight on Saturday night and midnight on the succeeding Saturday night."

Substitution of new section for section 3, Act XII of 1911.

3. For section 3 of the said Act, the following section shall be substituted, namely:—

Application of Act.

"3. Nothing in this Act shall apply to any mine subject to the operation of the [1]Indian Mines Act, 1901." VIII of 1901.

Amendment of section 7, Act XII of 1911.

4. In section 7 of the said Act, for sub-section (*2*) the following sub-sections shall be substituted, namely:—

"(*2*) A certifying surgeon may revoke any certificate granted to a child under sub-section (*1*) if, in his opinion, the child is no longer fit for employment in a factory.

(*3*) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory or revokes a certificate granted to a child in this behalf, he shall, if required by such person or child, or by the parent or guardian of such person or child, or by the manager of the factory in which such person or child desires to be employed, state in writing his reasons for such a refusal or revocation."

Amendment of section 8, Act XII of 1911.

5. In section 8 of the said Act,—

(*a*) for the words "any person practising medicine or surgery," the words "any registered practitioner" shall be substituted;

[1] General Acts, Vol. V.

(*b*) in the proviso, for the words "after the first date" to the end of the section, the words "for a period of more than three months" shall be substituted;

(*c*) after the proviso, the following *Explanation* shall be added, namely:—

"*Explanation.*—In this section the expression 'registered practitioner' means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a registered practitioner for the purposes of this section."

21 & 22 Vict., c. 90.

6. After section 8 in Chapter II of the said Act, the following section shall be inserted, namely:— Insertion of new section 8A in Act XII of 1911.

"8A. Where an Inspector is of opinion that a child employed in a factory is no longer fit for employment, he may serve on the manager of the factory a notice requiring that such child shall cease to be employed until he has been re-examined by a certifying surgeon or by a registered practitioner authorised by a certifying surgeon in this behalf." Compulsory medical examination.

7. To section 9 of the said Act, the following clause shall be added, namely:— Amendment of section 9, Act XII of 1911.

"(*d*) the atmosphere shall not be rendered so humid by artificial means as to be injurious to the health of the persons employed therein."

8. In clause (*c*) of sub-section (*1*) of section 18 of the said Act, after the word "machinery," the words "and electrical fittings including live wires and switches" shall be inserted. Amendment of section 18 Act XII of 1911.

9. After section 18 of the said Act, the following section shall be inserted, namely:— Insertion of new section 18A in Act XII of 1911.

"18A. (*1*) If an Inspector is of opinion— Repairs to buildings or machinery.

(*a*) that any factory or part thereof is in such a condition as to be dangerous to human life or safety, or

(*b*) that any part of the ways, works, machinery or plant used in a factory is in such a condition that it cannot be used without danger to human life, or safety,

he may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for removing the danger, and requiring him to carry them out before such date as may be specified therein.

(2) If, in the opinion of the Inspector, the use of any part of the ways, works, machinery or plant in a factory involves imminent danger to human life, he may serve on the manager of the factory an order in writing prohibiting the use thereof until it is duly repaired or altered."

Insertion of new sections 19A and 19B in Act XII of 1911.

10. After section 19 of the said Act, the following sections shall be inserted, namely:—

Power to prohibit presence of children in factories.

"19A. Where, in the opinion of the Inspector, the presence in any factory or any part thereof of children, who, by reason of their age, cannot, under the provisions of this Act, be lawfully employed therein, involves danger to, or injury to the health of, such children, he may serve on the manager of such factory an order in writing prohibiting the admission of such children to the factory or part thereof.

Prohibition of employment of women and persons under eighteen years in certain processes.

19B. No person under the age of eighteen years and no woman shall be employed in any factory in any of the operations specified in Part I of the Schedule, or, save in accordance with the regulations contained in Part II of the Schedule, in any operation involving the use of lead compounds."

Amendment of section 20, Act XII of 1911.

11. In the proviso to section 20 of the said Act, after the word "roof," the words "or to such height as the Inspector may, in any particular case, specify" shall be inserted.

Substitution of new section for section 21, Act XII of 1911. Rest periods in factories.

12. For section 21 of the said Act, the following section shall be substituted, namely:—

"21. (1) In every factory there shall be fixed,—

(*a*) for each person employed on each working day—

(*i*) at intervals not exceeding six hours, periods of rest of not less than one hour, or

(*ii*) at the request of the employees concerned, periods of rest of not less than half an hour each so arranged that, for each period of six hours work done, there shall be periods of rest of not less than one hour's duration in all, and that no person shall work for more than five hours continuously, and

(*b*) for each child working more than five and a half hours in any day, a period of rest of not less than half an hour.

(2) The period of rest under clause (*b*) shall be so fixed that no such child shall be required to work continuously for more than four hours."

13. To clause (*b*) of sub-section (*1*) of section 22 of the said Act, the following proviso shall be added, namely:— Amendment of section 22, Act XII of 1911.

"Provided that no such substitution shall be made as will result in any person working for more than ten consecutive days without a holiday for a whole day."

14. (*1*) In clause (*a*) of section 23 of the said Act, for the word "nine" the word "twelve" shall be substituted. Amendment of section 23, Act XII of 1911.

(*2*) In clause (*c*) of section 23 of the said Act, for the word "seven" the word "six" shall be substituted.

(*3*) The provisions of clause (*a*) of section 23 of the said Act, as hereby amended, shall not apply to any child lawfully employed in a factory on or before the first day of July, 1921.

15. In section 25 of the said Act, after the word "child" the words "or, save in such circumstances as may be prescribed, any other person" shall be inserted. Amendment of section 25, Act XII of 1911.

16. In section 26 of the said Act, for the words "woman or child" and the words "woman and child" the word "person" shall be substituted. Amendment of section 26, Act XII of 1911.

17. For section 27 of the said Act, the following sections shall be substituted, namely:— Substitution of new sections for section 27, Act XII of 1911.

"27. No person shall be employed in a factory for more than sixty hours in any one week. Limitation of working hours per week.

28. No person shall be employed in any factory for more than eleven hours in any one day." Limitation of working hours per day.

18. For Chapter V of the said Act, the following Chapter shall be substituted, namely:— Substitution of new Chapter for Chapter V, Act XII of 1911.

"CHAPTER V.

EXCEPTIONS.

29. Nothing in any of the following sections, namely, 21, 22, 24, 26, 27 and 28, shall apply to persons who may, by rules made by the Local Government under this Act, be defined to be persons holding positions of supervision or management or to persons employed in a confidential capacity. Exceptions for persons holding positions of supervision, etc.

30. (*1*) Where it is proved to the satisfaction of the Local Government— Exemptions.

(*a*) that any class of work in a factory is in the nature of preparatory or complementary work which must necessarily be

carried on outside the limits laid down for the general working of the factory; or

(*b*) that the work of any class of workers is essentially intermittent; or

(*c*) that there is in any class of factories any work which necessitates continuous production for technical reasons; or

(*d*) that any class of factories supplies the public with articles of prime necessity which must be made or supplied every day; or

(*e*) that in any class of factories the work performed, by the exigencies of the trade or by its nature, cannot be carried on except at stated seasons or at times dependent on the irregular action of natural forces;

the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

in case (*a*) such class of work from all or any of the provisions of sections 27 and 28;

in case (*b*) work of the nature described from all or any of the provisions of sections 22, 27 and 28;

in case (*c*) work of the nature described from the provisions of sections 21 and 22;

in cases (*d*) and (*e*) such class of factories from the provisions of section 22.

(*2*) The Local Government may, by general or special order, exempt for such period as may be specified in the order and on such conditions, if any, as it may impose, any factory from all or any of the provisions of sections 21, 22, 27 and 28, on the ground that such exemption is necessary in order to enable such factory to deal with an exceptional press of work.

(*3*) In such circumstances and subject to such conditions as may be prescribed, nothing in section 21, section 22, section 27 or section 28 shall apply to work on urgent repairs.

Payment for overtime.

31. Where, under the provisions of sub-section (*1*) of section 30, any factory has been exempted from the provisions of section 27, every person employed in such factory for more than sixty hours in any one week shall be paid, in respect of the overtime, at a rate which shall be at least one and a quarter times the rate at which he is normally paid.

Special exemptions for indigo, tea and coffee factories.

32. The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any indigo factory or any factory situated on, and used solely for the purposes of, a tea or coffee plantation, from all or any of the provisions of sections 21 and 22, on such conditions, if any, as it may impose."

19. In sub-section (*1*) of section 33 of the said Act, for clauses (*a*) and (*b*), the words "on or before the date on which the factory commences working as such" shall be substituted. Amendment of section 33, Act XII of 1911.

20. For section 35 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 35, Act XII of 1911.

"35. In every factory there shall be kept, in the prescribed form, a register of all the persons employed in such factory, of their hours of work and of the nature of their respective employment." Register of workers.

21. In section 36 of the said Act,— Amendment of section 36, Act XII of 1911.

(*a*) for clause (*b*) of sub-section (*1*), the following shall be substituted, namely:—

"(*b*) the periods of rest fixed under section 21";

(*b*) in clause (*d*) of sub-section (*1*), for the words "women and children, respectively, if not employed in shifts," the words "all persons employed" shall be substituted;

(*c*) after clause (*d*) of sub-section (*1*), the following shall be inserted, namely:—

"(*e*) the weekly holidays fixed under section 22."

22. In sub-section (*2*) of section 37 of the said Act,— Amendment of section 37, Act XII of 1911.

(*a*) in clause (*g*), after the word "ventilation," the words "and artificial humidification" shall be inserted;

(*b*) in clause (*j*), after the word "machinery," the words "and electrical fittings" shall be inserted;

(*c*) after clause (*j*), the following clause shall be inserted, namely:—

"(*jj*) the definition of 'persons' under section 29 who shall be deemed to be persons holding positions of supervision or management or persons employed in a confidential capacity."

23. After section 38 of the said Act, the following section shall be inserted, namely:— Insertion of new section 38A in Act XII of 1911.

"38A. The Governor General in Council may make rules for the adequate disinfection of wool used in factories which may be infected with anthrax spores." Rules for prevention of anthrax.

24. In section 39 of the said Act,— Amendment of section 39, Act XII of 1911.

(*a*) in sub-section (*1*), for the word and figures "section 38," the words and figures "sections 38 and 38A" shall be substituted;

(*b*) in sub-section (*2*), for the words and figures "sections 37 and 38," the words and figures "sections 37, 38 and 38A" shall be substituted.

Amendment of section 41, Act XII of 1911.

25. In section 41 of the said Act,—

(*a*) in clause (*f*), for the words "machinery or boilers," the words "machinery, electrical fittings or boilers" shall be substituted;

(*b*) in clause (*g*), for the words and figures "or section 18," the words and figures "section 18, section 18A or section [1][19A]" shall be substituted;

(*c*) for the words "two hundred," the words "five hundred" shall be substituted.

Amendment of section 43, Act XII of 1911.

26. In section 43 of the said Act, for the words "two hundred" the words "five hundred" shall be substituted.

Insertion of new section 43A in Act XII of 1911.

27. After section 43 of the said Act, the following section shall be inserted, namely:—

Power of Court to pay compensation out of fine.

"43A. Where under this Act a Criminal Court imposes a fine or confirms in appeal, revision or otherwise, a sentence of fine in respect of an offence causing bodily injury or death, the Court may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of his death, to his legal representative:

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal."

Amendment of section 48, Act XII of 1911.

28. In section 48 of the said Act, at the end of sub-section (*2*), the words and figures "or section 44" shall be added.

Amendment of section 50, Act XII of 1911.

29. In section 50 of the said Act,—

(*a*) in sub-section (*1*), for the words and figures "or section 18," the words and figures "section 18, section 18A or section 19A" shall be substituted;

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Except in the case of an appeal against an order under section 19A, the appellate authority may, on the application of the appellant, suspend the operation of an order of the Inspector pending the decision of the appeal. But where no such suspension has been granted, such order shall be complied with notwithstanding the fact that an appeal has been presented."

[1] These figures and letter were substituted for the figures and letter "19B" by s. 2 and Schedule I of the Repealing and Amending Act, 1923 (XI of 1923), *infra*.

30. In sub-section (*2*) of section 51 of the said Act, for the words and figures "section 24, clause (*a*) and section 29," the words and figures "and section 24, clause (*a*)" shall be substituted. Amendment of section 51, Act XII of 1911.

31. In section 52 of the said Act, for the words and figures "section 28 and section 32," the words and figures "section 27, section 28 and section 31" shall be substituted. Amendment of section 52, Act XII of 1911.

32. For Schedules I and II to the said Act, the Schedule contained in Schedule I to this Act shall be substituted. Amendment of Schedules to Act XII, 1911.

33. The provisions of the said Act specified in Schedule II are hereby repealed to the extent shown in the second column thereof. Repeals.

SCHEDULE I.

(*See section 32.*)

SCHEDULE TO BE SUBSTITUTED IN THE INDIAN FACTORIES ACT, 1911.

"THE SCHEDULE.

(*See section 19B.*)

PART I.

1. Work at a furnace where the reduction or treatment of zinc or lead ores is carried on:

2. The manipulation, treatment, or reduction of ashes containing lead, the desilverising of lead or the melting of scrap lead or zinc:

3. The manufacture of solder or alloys containing more than ten per cent. of lead:

4. The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead:

5. Mixing or pasting in connection with the manufacture or repair of electric accumulators:

6. The cleaning of work-rooms where any of the processes aforesaid are carried on.

PART II.

1. Where dust or fume from a lead compound is produced in the process, provision must be made for drawing the fume or dust away from the persons employed by means of an efficient exhaust draught so contrived as to operate on the dust or fume as nearly as may be at its point of origin:

2. The persons employed must undergo the prescribed medical examination at the prescribed intervals, and the prescribed record must be kept with respect to their health:

3. No food, drink, or tobacco, shall be brought into, or consumed in, any room in which the process is carried on, and no person shall be allowed to remain in any such room during meal times:

4. Adequate protective clothing in a clean condition shall be provided by the employer and worn by the persons employed:

5. Such suitable cloak-room, mess-room and washing accommodation as may be prescribed shall be provided for the use of the persons employed:

6. The rooms in which the persons are employed, and all tools and apparatus used by them, shall be kept in a clean condition."

SCHEDULE II.

(*See section 33.*)

REPEALS.

Section 2	Clause (*4*).
Section 22	Sub-sectio
Section 36	Sub-section (*4*).
Section 38	The words "from time to time".
Section 55	The whole.
Section 59	Ditto.

ACT No. III OF 1922.[1]

[*9th February, 1922.*]

An Act to amend the Benares Hindu University Act, 1915.

WHEREAS it is expedient to amend the [2]Benares Hindu University Act, 1915; It is hereby enacted as follows:— XVI of 1915.

Short title. **1.** This Act may be called the Benares Hindu University (Amendment) Act, 1922.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 14.
[2] General Acts, Vol. VIII.

2. For sub-section (*2*) of section 9 of the [1]Benares Hindu University Act, 1915, the following shall be substituted, namely:— Amendment of section 9, Act XVI of 1915.

XVI of 1915.

"(*2*) No person not being a Hindu shall become or be appointed a member of any Court other than the first Court unless he has been a member of the first Court."

ACT No. IV OF 1922.[2]

[*22nd February, 1922.*]

An Act to repeal certain special enactments supplementing the ordinary criminal law.

WHEREAS it is expedient that certain special enactments supplementing the ordinary criminal law should be repealed; It is hereby enacted as follows:—

1. This Act may be called the Special Laws Repeal Act, 1922. Short title.

2. The repeal of any enactment by this Act shall have effect in every part of British India, including British Baluchistan, the Sonthal Parganas, the Shan States and the Hill District of Arakan, in which the enactment was in force at the date of the commencement of this Act, and any notification, made under any law for the time being in force, whereby any such enactment has been declared to be in force in, or applicable to, or has been extended to, any such part, shall on and from that date be deemed to have been cancelled in so far as it relates to that enactment. Extent.

3. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof. Repeals.

THE SCHEDULE.

(*See section 3.*)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
		Madras and Bengal Regulations.	
1804	X	The Bengal State Offences Regulation, 1804.	So much as has not been repealed.
1808	VII	The Madras State Offences Regulation, 1808.	So much as has not been repealed.

[1] General Acts, Vol. VIII.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 59.

THE SCHEDULE—*contd.*

Year.	No.	Short title.	Extent of repeal.
		Acts of the Governor General in Council.	
1857	XI	The State Offences Act, 1857.	So much as has not been repealed.
"	XXV	The Forfeiture Act, 1857 .	So much as has not been repealed.
1872	IV	The Punjab Laws Act, 1872.	So much of the First Schedule as relates to the Bengal State Offences Regulation, 1804.
1874	XV	The Laws Local Extent Act, 1874.	So much of the First, Second, Fourth and Fifth Schedules as relates to the Bengal State Offences Regulation, 1804, the Madras State Offences Regulation, 1808, the State Offences Act, 1857, and the Forfeiture Act, 1857.
1875	XX	The Central Provinces Laws Act, 1875.	So much of the Schedule as relates to the Bengal State Offences Regulation, 1804.
1876	XVIII	The Oudh Laws Act, 1876	So much of the Second Schedule as relates to the Bengal State Offences Regulation, 1804.
1891	XII	The Amending Act, 1891 .	So much of the Second Schedule as relates to the Forfeiture Act, 1857.
1894	XIII	The Amending (Army) Act, 1894.	So much of the Second Schedule as relates to the Madras State Offences Regulation, 1808.
1897	V	The Amending Act, 1897 .	So much of the Third Schedule as relates to the Bengal State Offences Regulation, 1804.
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the State Offences Act, 1857, and the Forfeiture Act, 1857.
1898	XIII	The Burma Laws Act, 1898	So much of the First Schedule as relates to the State Offences Act, 1857, and the Forfeiture Act, 1857.
1915	IV	The Defence of India (Criminal Law Amendment) Act, 1915.	The whole.
1916	II	The Defence of India (Amendment) Act, 1916.	The whole.
1919	XI	The Anarchical and Revolutionary Crimes Act, 1919.	The whole.

THE SCHEDULE—*concld.*

Year.	No.	Short title.	Extent of repeal.
		Regulations by the Governor General in Council.	
1872	III	The Sonthal Parganas Settlement Regulation, 1872.	So much of the Schedule as relates to the Bengal State Offences Regulation, 1804.
1877	III	The Ajmere Laws Regulation, 1877.	So much of the Second Schedule as relates to the Bengal State Offences Regulation, 1804.
1895		The Kachin Hill-tribes Regulation, 1895.	So much of the Schedule as relates to the State Offences Act, 1857.
1896	V	The Chin Hills Regulation, 1896.	So much of the Schedule as relates to the State Offences Act, 1857.
1901	VII	The North-West Frontier Province Law and Justice Regulation, 1901.	So much of the Second Schedule as relates to the Bengal State Offences Regulation, 1804.
1913	II	The British Baluchistan Laws Regulation, 1913.	So much of the First Schedule as relates to the State Offences Act, 1857.
1916	I	The Arakan Hill District Laws Regulation, 1916.	So much of the First Schedule as relates to the State Offences Act, 1857.

ACT No. V OF 1922.[1]

[*22nd February, 1922.*]

An Act to repeal certain provisions of the Indian Criminal Law Amendment Act, 1908.

WHEREAS it is expedient that certain provisions of the [2]Indian Criminal Law Amendment Act, 1908, should be repealed; It is hereby enacted as follows:—

XIV of 1908.

1. This Act may be called the Indian Criminal Law Amendment Repealing Act, 1922. Short title

2. The repeal of an enactment by this Act shall have effect in every part of British India, including the Sonthal Parganas, in which the enactment was in force at the date of the commencement of this Act, and any notification, made under any law for the time being in force, whereby Extent.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 56.
[2] General Acts, Vol. VI.

any such enactment has been declared to be in force in, or applicable to, or has been extended to, any such part, shall on and from that date be deemed to have been cancelled in so far as it relates to that enactment.

Repeals.

3. Sub-section (*3*) of section 1 and the whole of Part I of, and the Schedule to, the [1]Indian Criminal Law Amendment Act, 1908, and so much of the First Schedule to the [2]Devolution Act, 1920, as relates to sub-section (*3*) of section 1 and to sub-section (*1*) of section 2 of the [1]Indian Criminal Law Amendment Act, 1908, are hereby repealed. XIV of 1908. XXXVIII of 1920. XIV of 1908.

ACT No. VI OF 1922.[3]

[*1st March, 1922.*]

An Act further to amend the Indian Lunacy Act, 1912.

WHEREAS it is expedient further to amend the [4]Indian Lunacy Act, 1912; It is hereby enacted as follows:— IV of 1912.

Short title.

1. This Act may be called the Indian Lunacy (Amendment) Act, 1922. IV of 1912.

Amendment of section 3, Act IV of 1912.

2. In section 3 of the [4]Indian Lunacy Act, 1912 (hereinafter referred to as the said Act),—

(*a*) in clause (*1*), after the word "asylum" where it occurs for the second time, the words "or mental hospital" shall be inserted; and

(*b*) to clause (*2*) the following shall be added, namely:—

"together with any other charges specified in this behalf by the Governor General in Council, in exercise of any power conferred upon him by this Act."

Amendment of section 84, Act IV of 1912.

3. To section 84 of the said Act, the following words shall be added, namely:—

"if it is satisfied that provision has been or will be made for the curative treatment therein of persons suffering from mental diseases."

Insertion of new section 84A in Act IV of 1912.

4. After section 84 of the said Act, the following section shall be inserted, namely:—

Power to cancel licence if provision for curative treatment is insufficient.

"84A. If in any licensed asylum no provision for curative treatment has been made, or the Local Government considers that the provision made is insufficient, the Local Government may require the person in charge of the asylum to take such measures for making or supplementing such provision as it may deem necessary, and, if such person does not comply with the requisition within a reasonable time, the Local Government may revoke the licence."

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[1] General Acts, Vol. VI.
[2] *Supra.*
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 70.
[4] General Acts, Vol. VII.

5. After section 89 of the said Act, the following sections shall be inserted, namely:— Insertion of new sections 89A and 89B in Act IV of 1912.

"89A. The Governor General in Council may, by general or special order, prescribe the amount payable on account of the cost of maintenance of lunatics detained in any asylum for the cost of whose maintenance any Local Government is liable, and the proportions in which such amount shall be payable respectively by the Local Governments so liable. Any such amount may include charges on account of the upkeep of the asylum and of the capital cost of the establishment of the asylum. Fixation of cost of maintenance.

89B. (*1*) When under the provisions of this Act the cost of the maintenance of a lunatic is payable by the Government, then such cost shall be payable— Incidence of costs of maintenance payable by Government.

(*a*) in the case of a lunatic not domiciled in British India, by the Local Government of the province in which the reception order or the order under section 25, as the case may be, was made; and

(*b*) in the case of a lunatic domiciled in British India, by the Local Government of the province in which the lunatic has last resided for a period of five years before the reception order or the order under section 25, as the case may be, was made; or, if the lunatic has not been resident in any one province for such period, by the Local Government of the province in which such order was made.

(*2*) If any question arises as to the incidence of the cost of maintenance of any lunatic under sub-section (*1*), the question shall be referred to the Governor General in Council, and his decision thereon shall be final."

ACT No. VII OF 1922.[1]

[*5th March, 1922.*]

An Act to amend the law relating to emigration.

WHEREAS it is expedient to amend the law relating to emigration; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Emigration Act, 1922. Short title and extent.

(*2*) It extends to the whole of British India.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 109; and for Report of Select Committee, *see ibid*, 1922, Pt. V, p. 17.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "dependent" means any woman or child who is related to an emigrant and any aged or incapacitated relative of an emigrant;

(*b*) "emigrant" means any person who emigrates or has emigrated or who has been registered as an emigrant under this Act, and includes any dependent of an emigrant, but does not include—

(*i*) any person emigrating to a country in which he has resided for not less than five years or the wife or child of such person, or

(*ii*) the wife or child of any person who has lawfully emigrated when such wife or child departs for the purpose of joining such person;

(*c*) "emigrate" and "emigration" mean the departure by sea out of British India of—

(*i*) any person who departs under an agreement to work for hire in any country beyond the limits of India, and

(*ii*) any person who is assisted to depart, otherwise than by a relative, if he departs, for the purpose or with the intention of working for hire or engaging in agriculture in any country beyond the limits of India;

(*d*) "prescribe" means to prescribe by rules made under this Act;

(*e*) "work," with its grammatical variations, means skilled or unskilled work;

(*f*) "skilled work" means—

(*i*) working as an artisan; or

(*ii*) working as a clerk or shop assistant; or

(*iii*) working for the purpose of any exhibition or entertainment; or

(*iv*) service in any restaurant, tea-house, or other place of public resort; or

(*v*) domestic service; or

(*vi*) any other occupation which the Governor General in Council may, by notification in the Gazette of India, declare to be skilled work;

(*g*) "unskilled work" includes engaging in agriculture.

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings, as to whether—

(a) any person is an emigrant, or

(b) any work is skilled or unskilled, or

(c) any person has been assisted otherwise than by a relative,

within the meaning of this Act, the question shall be determined by such person and in such manner as the Local Government may prescribe, and such determination shall be final.

CHAPTER II.

Protectors of Emigrants and Medical Inspectors.

Appointment of Protectors of Emigrants.

3. (1) Subject to the control of the Governor General in Council, the Local Government may appoint a person to be the Protector of Emigrants for any port situate within the territories administered by it from which emigration is lawful.

(2) The Local Government may define the area to which the authority of a Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants shall be a public servant within the meaning of the [1]Indian Penal Code. XLV of 1860.

General duty of Protector.

4. Every Protector of Emigrants, in addition to the special duties assigned to him by or under this Act, shall—

(a) protect and aid with his advice all emigrants;

(b) cause, so far as he can, all the provisions of this Act and of the rules made thereunder to be complied with;

(c) inspect, at the time of arrival, to such extent and in such manner as the Local Government may prescribe, vessels bringing return emigrants to the port for which he is Protector;

(d) inquire into the treatment received by return emigrants both during the period of their residence in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government;

(e) aid and advise return emigrants so far as he reasonably can; and

(f) on being satisfied that any person intending to depart by sea out of British India, comes within one of the classes expressly excluded from the definition of emigrant in section 2, furnish such person with a certificate to the effect that such person is not an emigrant for the purpose of this Act.

[1] General Acts, Vol. I.

Power to appoint persons to exercise functions of a Protector.

5. (*1*) In any specified area where there is not a Protector of Emigrants, the Local Government, subject to the control of the Governor General in Council, may appoint any person to perform all or any of the duties of a Protector of Emigrants under this Act.

(*2*) Every person so appointed shall be a public servant within the meaning of the [1]Indian Penal Code. XLV of 1860.

Appointment of Medical Inspectors.

6. (*1*) The Local Government may appoint one or more Medical Inspectors of Emigrants at any port from which emigration is lawful or at any other place, and, where more than one are appointed, may apportion their respective duties.

(*2*) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the [1]Indian Penal Code. XLV of 1860.

Agents in foreign countries.

7. The Governor General in Council may, for the purpose of safeguarding the interests of emigrants in any place outside British India, appoint persons to be agents in such places, and may define their powers and duties.

Advisory Committees.

8. The Local Government may, for the purpose of assisting any Protector of Emigrants appointed by it or any person appointed by it under section 5, constitute an Advisory Committee in such manner as it may think fit, and may prescribe the procedure to be followed and the functions to be performed by such committee.

CHAPTER III.

Emigration for the Purpose of Unskilled Work.

Ports from which emigration of unskilled workers is lawful.

9. (*1*) Emigration, for the purpose of unskilled work, shall not be lawful except from the ports of Calcutta, Madras, Bombay, Karachi, Negapatam, Tuticorin and Dhanushkodi, and from such other ports as the Governor General in Council may, by notification in the Gazette of India, declare to be ports from which such emigration is lawful.

(*2*) The Local Government may, by notification in the local official Gazette, fix for the purposes of this Act the limits of any port from which such emigration is lawful.

Countries to which emigration of unskilled workers is lawful.

10. (*1*) Emigration, for the purpose of unskilled work, shall not be lawful except to such countries and on such terms and conditions as the Governor General in Council, by notification in the Gazette of India, may specify in this behalf.

(*2*) No notification shall be made under sub-section (*1*) unless it has been laid in draft before both Chambers of the Indian Legislature and

[1] General Acts, Vol. I.

has been approved by a resolution of each Chamber, either without modification or addition, or with modifications and additions to which both Chambers agree, but, upon such approval being given, the notification may be issued in the form in which it has been so approved.

Power to suspend emigration of unskilled workers.

11. (*1*) Where the Governor General in Council has reason to believe that in any country to which emigration for the purpose of unskilled work is lawful plague or any other epidemic disease dangerous to human life has broken out, and that emigrants if allowed to emigrate to that country would be exposed to serious risk to life on arrival there, he may, by notification in the Gazette of India, declare that emigration to that country for the purpose of unskilled work shall cease to be lawful.

(*2*) Where a Local Government has reason to believe that such a state of affairs as is described in sub-section (*1*) exists in any country to which emigration for the purpose of unskilled work is lawful, it may, by notification in the local official Gazette, declare that emigration to that country for the purpose of unskilled work from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

(*3*) The Local Government publishing a notification under sub-section (*2*) shall forthwith report such notification with the reasons for it to the Governor General in Council, who shall thereupon publish a notification in the Gazette of India confirming or cancelling the notification published by the Local Government.

Revocation of Prohibition.

12. Where the Governor General in Council is satisfied that the ground on which a notification under sub-section (*1*) of section 11, or a notification under sub-section (*3*) of section 11 confirming a notification of a Local Government has been made with respect to any country, has ceased to exist, he may, by notification in the Gazette of India, declare that emigration to that country for the purpose of unskilled work shall again be lawful from a date to be specified in the notification.

Powers of Governor General in Council to prohibit emigration to specified country.

13. (*1*) The Governor General in Council may, by notification in the Gazette of India, prohibit, from a date, and for reasons, to be specified in the notification, all persons or any specified class of persons from emigrating to any specified country from the territories under the administration of any Local Government or any specified part thereof, for the purpose of unskilled work.

(*2*) Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.

Saving.

14. A notification under section 10, section 11, section 12 or section 13 shall not affect any act done, offence committed, or legal proceedings commenced before the date on which such notification takes effect.

CHAPTER IV.

EMIGRATION FOR THE PURPOSE OF SKILLED WORK.

Ports from which emigration of skilled workers is lawful.

15. Emigration, for the purpose of skilled work, shall not be lawful except from a port from which emigration for the purpose of unskilled work is lawful and from such other ports as the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.

Emigration of skilled workers.

16. (*1*) Whoever desires to engage, or to assist, any person to emigrate for the purpose of skilled work shall apply for the permission of the Local Government having jurisdiction at the port from which such person is to depart, and shall state in his application—

(*a*) the number of persons whom he proposes so to engage or assist;

(*b*) the place beyond the limits of India to which each such person and his dependents are to proceed;

(*c*) the accommodation to be provided for each such person and his dependents until their departure out of India and during the voyage.

(*2*) Whoever desires to engage any person for the purpose described in sub-section (*1*) shall, in addition to the information which he is required by that sub-section to supply in his application, further state therein—

(*a*) the provision to be made for the health and well-being of such person and his dependents during the period of the proposed engagement and for their repatriation at the end of such period;

(*b*) the terms of the agreement under which such person is to be engaged;

(*c*) the security in British India which he proposes to furnish for the due observance of such agreement and for the proper treatment of the person to be engaged and his dependents.

Applications how to be disposed of.

17. On receiving an application under section 16, the Local Government may, after such inquiry as it may deem necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees (if any) as it thinks fit, or withhold such permission, and the decision of the Local Government shall be final.

Appearance of engaged persons before, and registration of names by

18. (*1*) Before any person departs from British India in accordance with permission granted under section 17, the person by whom he has been engaged or assisted shall appear in person or by his duly authorised agent before the Protector of Emigrants at the port of embarkation with

such first-mentioned person and with any persons intending to accompany him as his dependents. Protector of Emigrants.

(2) If it appears to the Protector of Emigrants—

(a) that permission to engage or assist such person has been duly obtained,

(b) in the case of an engagement, that the terms of the agreement under which such person has been engaged are in accordance with the terms of the permission granted and are understood by him, and

(c) that the conditions on which the permission was granted have been complied with,

he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependents (if any) and concerning the person engaging or assisting him, and in such form, as the Local Government may prescribe.

19. Where such security as is referred to in sub-section (2) of section 16 has been furnished, the Local Government may, at any time after making such inquiry as it may deem necessary, pass orders in regard to the forfeiture of the security in whole or in part and the application of the same or any part thereof, and, on the expiry of the period to which the agreement relates and on being satisfied that no ground exists for forfeiting the security in whole or in part, order the return of the security or of any part thereof to the person by whom it was furnished or to his representative. Provisions as to security.

20. The Local Government may, by notification in the local official Gazette, authorise a Protector of Emigrants to receive and dispose of applications made under this Chapter: Delegation to Protector of Emigrants of authority to receive or dispose of applications.

Provided that an appeal shall lie to the Local Government from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

21. (1) Where the Governor General in Council has reason to believe that sufficient grounds exist for prohibiting emigration of skilled workers to any country, he may, by notification in the Gazette of India, declare that such emigration to that country shall cease to be lawful from a date specified in the notification; and from that date such emigration to that country shall accordingly cease to be lawful. Power to prohibit emigration of skilled workers.

(2) Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.

22. Nothing in this Chapter shall apply in any case in which a person engages another to accompany him out of India as his personal domestic servant. Saving.

CHAPTER V.

RULES.

Power of Local Government to make rules.

23. Subject to the control of the Governor General in Council, the Local Government may, by notification in the local official Gazette, make rules consistent with this Act to prescribe the person by whom any doubt or dispute referred to in sub-section (*2*) of section 2 shall be determined and the procedure to be followed and the proof to be required in such cases, and to provide for any other matter which the Local Government is by this Act empowered to prescribe.

Power for the Governor General in Council to make rules.

24. (*1*) The Governor General in Council may, by notification in the Gazette of India, and after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the powers and duties of the several officers appointed by the Governor General in Council under this Act;

(*b*) the licensing, supervision and control of all persons employed in British India in connection with the inducement of persons to emigrate and with the conveyance and accommodation of persons so induced;

(*c*) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there;

(*d*) the forms to be maintained and the returns to be submitted by persons licensed in accordance with rules framed under clause (*b*);

(*e*) the information to be furnished by persons licensed in accordance with rules framed under clause (*b*) to emigrants and the language in which such information is to be furnished;

(*f*) the production and examination of emigrants before District Magistrates or such other authorities as may be appointed in this behalf;

(*g*) the age below which persons of either sex may not emigrate except as dependents;

(*h*) the accommodation, the provisions, fuel and other necessaries, the medical stores and staff, the life-saving and sanitary arrangements, and the records to be maintained on any ship specially chartered for the transport of emigrants;

(*i*) the reception and the despatch to their homes of return emigrants;

(*j*) the fees, if any, payable by Emigration Agents to Protectors of Emigrants for each emigrant departing from India; and

(*k*) generally, the security, well-being and protection of emigrants both up to the date of their actual departure from India and on their return to India.

CHAPTER VI.

OFFENCES.

Unlawful emigration or inducement to emigrate.

25. (*1*) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate shall be punishable with fine which may extend to fifty rupees.

(*2*) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

(*a*) makes, or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate, or

(*b*) induces, or attempts to induce, any person to emigrate or to attempt to emigrate or to leave any place for the purpose of emigrating, or

(*c*) causes any person engaged or assisted by him, after grant of the permission referred to in section 17, to depart by sea out of British India without registration of the particulars required by sub-section (*2*) of section 18,

shall be punishable with fine, which may extend to five hundred rupees.

(*3*) If any person commits an offence under this section, any police-officer may arrest him without warrant.

Fraudulently inducing to emigrate.

26. Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

False representation of Government authority.

27. Whoever falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five hundred rupees, or with both.

Sanction to prosecutions.

28. No prosecution shall be instituted for any offence under this Chapter except with the sanction of a Protector of Emigrants or of a person appointed under section 5 and empowered in this behalf or, where there is no Protector or person so appointed and empowered, of the District Magistrate:

Provided that no sanction shall be required when an offence has been committed in respect of an emigrant or an intended emigrant and the complaint is filed by such emigrant, or intended emigrant or, on behalf of such emigrant or intended emigrant, by the father, mother, husband, wife or guardian of such emigrant or intended emigrant or, if such emigrant or intended emigrant is a member of a joint Hindu family, by the manager of that family.

Power for Customs-officer to search and detain for purposes of Act.

29. All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

CHAPTER VII.

SUPPLEMENTAL.

Prohibition of departure by land under an agreement to work for hire in some country beyond the sea.

30. (*1*) The departure by land out of British India of any person under, or with a view to entering into, an agreement to work for hire, or when assisted, otherwise than by a relative, so to depart for the purpose or with the intention of working for hire or engaging in agriculture, in any country beyond the sea, is prohibited.

(*2*) Whoever departs, or attempts to depart, by land out of British India in contravention of this section, shall be deemed to have committed an offence under sub-section (*1*) of section 25.

(*3*) Whoever induces, or attempts to induce, any person to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under sub-section (*2*) of section 25.

CHAPTER VIII.

SAVINGS AND REPEAL.

Application of Act.

31. Nothing in this Act shall be deemed to apply to the departure out of British India of—

(*i*) any person who is neither of Indian parentage nor a subject of a State in India, or

(*ii*) any person enrolled under the [1]Indian Army Act, 1911. VIII of 1911.

Saving.

32. Notwithstanding anything contained in this Act, the provisions of this Act shall not apply for a period of twelve months from the date of the commencement of this Act to persons emigrating to Ceylon, the Straits Settlements, or any protected Native State adjoining the Straits Settlements.

Repeal.

33. The Indian Emigration Act, 1908, is hereby repealed. XVII of 1908.

[1] General Acts, Vol. VII.

ACT No. VIII OF 1922.[1]

[*5th March, 1922.*]

An Act to establish and incorporate a unitary teaching and residential University at Delhi.

WHEREAS it is expedient to establish and incorporate a unitary teaching and residential University at Delhi; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Delhi University Act, 1922.

(*2*) It shall come into force on such [2]date as the Governor General in Council may, by notification in the Gazette of India, direct.

Definitions.

2. In this Act and in the Statutes, unless there is anything repugnant in the subject or context,—

(*a*) " College " means an institution maintained or recognized by the University in accordance with the provisions of this Act, in which instruction is provided under conditions prescribed in the Statutes, and in which provision is made for residence of students of the University;

(*b*) " Hall " means a unit of residence for students of the University maintained or recognized by the University in accordance with the provisions of this Act;

(*c*) " Patron of the University " means a person who has made a donation of not less than one lakh of rupees to the funds of the University, and has been declared by the Chancellor to be a Patron of the University;

(*d*) " Principal " means the head of a College;

(*e*) " registered graduate " means a graduate registered under the provisions of this Act;

(*f*) " Statutes," " Ordinances " and " Regulations " mean, respectively, the Statutes, Ordinances and Regulations of the University made under this Act;

(*g*) " teachers " includes Professors, Readers, Lecturers and other persons imparting instruction in the University or in any College or Hall;

(*h*) " teachers of the University " means persons appointed or recognized by the University under the provisions of this Act for the purpose of imparting instruction in the University or any College;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 12; and for Report of Joint Committee, *see ibid*, 1922, Pt. V, p. 89.

[2] The 1st May, 1922, *see* Gazette of India, 1922, Pt. I, p. 384.

(*i*) " University " means the University of Delhi; and

(*j*) " Warden " means the head of a Hall.

The University.

The University.

3. (*1*) The first Chancellor and the first Vice-Chancellor of the University and the first members of the Court, the Executive Council and the Academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of " the University of Delhi ".

(*2*) The University shall have perpetual succession and a Common Seal, and shall sue and be sued by the said name.

Powers of the University.

4. The University shall have the following powers, namely:—

(1) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge,

(2) to hold examinations and to grant to, and confer degrees and other academic distinctions on, persons who—

(*a*) have pursued a course of study in the University, or

(*b*) are teachers in educational institutions,

under conditions laid down in the Ordinances and Regulations, and have passed the examinations of the University under like conditions,

(3) to confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes,

(4) to grant such diplomas to, and to provide such lectures and instruction for, persons not being members of the University, as the University may determine,

(5) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine,

(6) to institute Professorships, Readerships, Lectureships and any other teaching posts required by the University,

(7) to appoint or recognize persons as Professors, Readers or Lecturers, or otherwise as teachers of the University,

(8) to institute and award Fellowships, Scholarships, Exhibitions and Prizes in accordance with the Statutes and the Regulations,

(9) to maintain Colleges and Halls, to recognize Colleges and Halls not maintained by the University, and to withdraw such recognition,

(10) to demand and receive payment of such fees and other charges as may be authorised by the Ordinances,

(11) to supervise and control the residence and discipline of students of the University, and to make arrangements for promoting their health and general welfare,

(12) to make grants from the funds of the University for the maintenance of the University corps of the Indian Territorial Force, and

(13) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University as a teaching and examining body, and to cultivate and promote arts, science and other branches of learning.

Territorial exercise of powers.

5. (*1*) Save as otherwise provided in this Act, the powers of the University conferred by or under this Act shall not extend beyond a radius of 10 miles from the Convocation Hall of the University, and, notwithstanding anything in any other law for the time being in force, no educational institution beyond that limit shall be associated with or admitted to any privileges of the University:

Provided that nothing in this sub-section shall apply to any agricultural or other technical institution established or maintained in connection with the University with the sanction of the Governor General in Council.

(*2*) Notwithstanding anything in any other law for the time being in force, no educational institution within the afore-mentioned limit shall be associated in any way with or be admitted to any privileges of any other University incorporated by law in British India, and any such privileges granted by any such other University to any educational institution within that limit prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act:

[1]Provided that the Governor General in Council may, by order in writing, direct that the provisions of this sub-section shall not apply in the case of any institution specified in the order.

University open to all classes, castes and creeds.

6. The University shall be open to all persons of either sex and of whatever race, creed or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be admitted thereto as a teacher or student, or to hold any office therein, or to graduate thereat, or to enjoy or exercise any privilege thereof, except where such test is specially prescribed by the Statutes, or, in respect of any particular benefaction accepted by the University, where such test is made a condition thereof by any testamentary or other instrument creating such benefaction:

Provided that nothing in this section shall be deemed to prevent religious instruction being given in the manner prescribed by the Ordinances to those not unwilling to receive it by persons (whether teachers of the University or not) approved for that purpose by the Executive Council.

[1] For notification directing that the provisions of this sub-section shall not apply to the Lady Hardinge Medical College for Women at Delhi, *see* Gazette of India, 1922, Pt. I, p. 491, to the Dayanand National High School, Delhi, *see ibid*, 1923, Pt. I, p. 498, and to certain High Schools, *see ibid*, 1923, Pt. I, p. 259.

Teaching of the University.

7. (*1*) All recognized teaching in connection with the University courses shall be conducted under the control of the Academic Council by teachers of the University, and shall include lecturing, laboratory work and other teaching conducted in accordance with any syllabus prescribed by the Regulations.

(*2*) Every teacher of the University shall be attached to a College, and at least one such teacher shall be attached to each College.

(*3*) The authorities responsible for organizing such teaching shall be prescribed by the Statutes.

(*4*) The courses and curricula shall be prescribed by the Ordinances and, subject thereto, by the Regulations.

(*5*) Save as otherwise expressly provided by this Act, it shall not be lawful for the University or any College to maintain classes, after the expiration of five years from the commencement of this Act, for the purpose of preparing students for admission to the University save with the sanction of the Governor General in Council and during such period as he may direct, or at any time to frame courses, conduct examinations or recognise institutions for the purpose of preparing or testing students for admission to the University save with such sanction and during such period.

Officers of the University.

Officers of the University.

8. The following shall be the officers of the University:—

(I) the Chancellor,

(II) the Pro-Chancellor,

(III) the Vice-Chancellor,

(IV) the Rector,

(V) the Treasurer,

(VI) the Registrar,

(VII) the Deans of the Faculties, and

(VIII) such other persons in the service of the University as may be declared by the Statutes to be officers of the University.

The Chancellor.

9. (*1*) The Chancellor shall be the Governor General. He shall by virtue of his office be the head of the University and the President of the Court, and shall, when present, preside at meetings of the Court and at any Convocation of the University.

(*2*) The Chancellor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University, its buildings, laboratories, equipment, and of any institutions associated with the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the Univer-

sity. The Chancellor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

(*3*) The Chancellor may address the Vice-Chancellor with reference to the results of such inspection or inquiry, and the Vice-Chancellor shall communicate to the Executive Council the views of the Chancellor and shall, after ascertaining, if he so thinks fit, the opinion of the Executive Council thereon, advise the University upon the action to be taken thereon.

(*4*) The Executive Council shall report to the Vice-Chancellor for communication to the Chancellor such action, if any, as it is proposed to take or has been taken upon the results of such inspection or inquiry.

(*5*) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes.

(*6*) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

The Pro-Chancellor.

10. The Pro-Chancellor shall be appointed by the Chancellor and shall hold office for three years. He shall when present, in the absence of the Chancellor, preside at meetings of the Court and at any Convocation of the University.

The Vice-Chancellor.

11. (*1*) The Vice-Chancellor shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council, and shall hold office for such term and subject to such conditions as may be prescribed by the Statutes.

(*2*) Where any temporary vacancy in the office of the Vice-Chancellor occurs by reason of leave, illness or other cause, the Executive Council shall forthwith report the same to the Chancellor, who shall make such arrangements for carrying on the office of the Vice-Chancellor as he may think fit.

Powers and duties of the Vice-Chancellor.

12. (*1*) The Vice-Chancellor shall be the principal executive and academic officer of the University, and shall, in the absence of the Chancellor and the Pro-Chancellor, preside at meetings of the Court and at any Convocation of the University. He shall be an *ex-officio* member and Chairman of the Executive Council and of the Academic Council and shall be entitled to be present and to speak at any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of the authority or body concerned.

(*2*) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes and the Ordinances are faithfully observed, and he shall have all powers necessary for this purpose.

(*3*) The Vice-Chancellor shall have power to convene meetings of the Court, the Executive Council and the Academic Council.

(*4*) (*a*) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice-Chancellor shall take such action as he deems necessary, and shall, at the earliest opportunity thereafter, report his action to the officer, authority or other body who or which in the ordinary course would have dealt with the matter.

(*b*) When action taken by the Vice-Chancellor under clause (*a*) affects any person in the service of the University, such person shall be entitled to prefer an appeal to the Executive Council through the said officer, authority or other body within fifteen days from the date on which such action is communicated to him.

(*5*) The Vice-Chancellor shall give effect to any order of the Executive Council regarding the appointment, dismissal or suspension of an officer or teacher of the University, or regarding the recognition or withdrawal of the recognition of any such teacher, and shall exercise general control in the University. He shall be responsible for the discipline of the University in accordance with this Act, the Statutes and the Ordinances.

(*6*) The Vice-Chancellor shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

The Rector.

13. The Chancellor may appoint a Rector who shall hold office for such term and subject to such conditions, and shall exercise such powers, and perform such duties, of the Vice-Chancellor, as the Chancellor, after consultation with the Vice-Chancellor, may direct.

The Treasurer.

14. The Treasurer shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council, upon such conditions and for such period, and shall receive such remuneration (if any), as the Executive Council shall deem fit. He shall be an *ex-officio* member of the Executive Council and shall—

(1) exercise general supervision over the funds of the University, and advise in regard to its financial policy;

(2) subject to the control of the Executive Council, manage the property and investments of the University, and be responsible for the presentation of the annual estimates and statements of accounts;

(3) subject to the powers of the Executive Council, be responsible for seeing that all monies are expended on the purpose for which they are granted or allotted;

(4) sign all contracts made on behalf of the University; and

(5) exercise such other powers as may be prescribed by the Statutes and the Ordinances:

Provided that the Chancellor may, on the recommendation of the Executive Council, in the case of any vacancy in the office of the Trea-

surer, whether permanent or otherwise, direct that the Registrar shall act as the Treasurer and perform all the duties and exercise all the powers of the Treasurer, and when any such direction has been made references to the Treasurer in this Act and the Statutes, Ordinances and Regulations shall be deemed to be references to the Registrar.

The Registrar.

15. The Registrar shall act as Secretary of the Court, the Executive Council and the Academic Council. He shall maintain a register of registered graduates in accordance with the Statutes, and shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

Other officers.

16. The powers of officers of the University other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Rector, the Treasurer and the Registrar shall be prescribed by the Statutes and the Ordinances.

Authorities of the University.

Authorities of the University.

17. The following shall be the authorities of the University:—

(I) the Court,
(II) the Executive Council,
(III) the Academic Council,
(IV) the Faculties, and
(V) such other authorities as may be declared by the Statutes to be authorities of the University.

The Court.

18. (*1*) The Court shall consist of the following persons, namely:—

Class I.—Ex-officio members.

(*i*) The Chancellor,
(*ii*) the Pro-Chancellor,
(*iii*) the Vice-Chancellor,
(*iv*) the Rector,
(*v*) the Treasurer,
(*vi*) the Registrar,
(*vii*) the Principals,
(*viii*) the Professors and Readers of the University, and
(*ix*) such other *ex-officio* members as may be prescribed by the Statutes.

Class II.—Life members.

(*x*) The Patrons of the University and persons (if any) appointed by the Chancellor on the recommendation of the Executive Council to be life members on the ground that they have rendered great services to education or have made substantial donations to the University.

Class III.—Other members.

(*xi*) Graduates of the University elected by the registered graduates from among their own body,

(*xii*) persons elected from among their own body by the teachers who are not Professors or Readers of the University,

(*xiii*) persons elected by associations or other bodies approved in this behalf by the Chancellor on the recommendation of the Court,

(*xiv*) persons elected by the elected members of the Council of State and the Legislative Assembly from among their own numbers,

(*xv*) persons appointed by the Chancellor, and

(*xvi*) a representative of the Governing Body of each College, elected or nominated by that Body.

(*2*) The number of members to be elected or appointed under clauses (*xi*), (*xii*), (*xiii*), (*xiv*) and (*xv*), and the tenure of office of members to be elected or appointed under each clause of Class III, shall be prescribed by the Statutes, and the mode of election of members to be elected under clauses (*xi*) and (*xii*) shall be prescribed by the Ordinances.

Meetings of the Court.

19. (*1*) The Court shall, on a date to be fixed by the Vice-Chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

(*2*) The Vice-Chancellor may, whenever he thinks fit, and shall upon a requisition in writing signed by not less than thirty members of the Court, convene a special meeting of the Court.

Powers and duties of the Court.

20. Subject to the provisions of this Act, the Court shall exercise the following powers and perform the following duties, namely:—

(*a*) of making Statutes, and of amending or repealing the same,

(*b*) of considering and cancelling Ordinances, and

(*c*) of considering and passing resolutions on the annual report, the annual accounts and the financial estimates,

and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

The Executive Council.

21. The Executive Council shall be the executive body of the University, and its constitution and the terms of office of its members, other than *ex-officio* members, shall be prescribed by the Statutes.

Powers and duties of the Executive Council.

22. The Executive Council—

(*a*) shall hold, control and administer the property and funds of the University, and for these purposes shall appoint a Finance Committee to advise it on matters of finance. The Treasurer shall be the Chairman of the Committee, and the remaining members shall be appointed from among the

members of the Executive Council, provided that at least one member of the Committee shall be a member elected to the Executive Council by the Court;

(*b*) shall determine the form, provide for the custody and regulate the use of the Common Seal of the University;

(*c*) shall lay before the Governor General in Council annually a full statement of the financial requirements of the University and the Colleges;

(*d*) shall administer any funds placed at the disposal of the University for specific purposes;

(*e*) subject to the provisions of this Act and the Statutes, shall appoint the officers (other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Rector and the Treasurer), teachers, clerical staff and servants of the University, and shall define their duties and the conditions of their service, and shall provide for the filling of temporary vacancies in their posts;

(*f*) shall have power to accept on behalf of the University transfers of any moveable or immoveable property;

(*g*) shall arrange for the holding of, and publish the results of, the University examinations;

(*h*) shall, subject to the powers conferred by this Act on the Vice-Chancellor, regulate and determine all matters concerning the University in accordance with this Act, the Statutes and the Ordinances:

Provided that no action shall be taken by the Executive Council in respect of the appointment or emoluments of examiners, or the number, qualifications or emoluments of teachers otherwise than on a recommendation of the Academic Council; and

(*i*) shall exercise all other powers of the University, not otherwise provided for by this Act or the Statutes.

The Academic Council.

23. The Academic Council shall be the academic body of the University, and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation, and be responsible for the maintenance, of standards of instruction, education and examination within the University, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes. It shall have the right to advise the Executive Council on all academic matters. The constitution of the Academic Council and the term of office of its members, other than *ex-officio* members, shall be prescribed by the Statutes.

The Faculties.

24. (*1*) Provision shall be made, as soon as possible after the commencement of this Act, for the inclusion in the University of the Faculties of Arts, Science, Medicine, Commerce, Technology and Indian Fine Arts (including Music), and such other Faculties shall be included in the University (whether by the sub-division or combination of an existing Faculty or Faculties, or by the creation of a new Faculty or otherwise) as may be prescribed by the Statutes. Each Faculty shall, subject to the control of the Academic Council, have charge of the teaching and the courses of study and the research work in such subjects as may be assigned to such Faculty by the Ordinances.

(*2*) The constitution and powers of the Faculties shall be prescribed by the Statutes.

(*3*) There shall be a Dean of each Faculty, who shall be responsible for the due observance of the Statutes, Ordinances and Regulations relating to the Faculty.

(*4*) Each Faculty shall comprise such Departments of teaching as may be prescribed by the Ordinances. The head of every such Department shall be the Professor of the Department or, if there is no Professor, the Reader. If there is more than one Professor or more than one Reader of a Department, the Vice-Chancellor shall appoint to be head of the Department such one of the Professors or, if there is no Professor, such one of the Readers as he thinks fit. The head of the Department shall be responsible to the Dean for the organization of the teaching in that Department.

(*5*) The Dean of a Faculty shall be elected by the Faculty from among the heads of Departments of the Faculty, and shall hold office as Dean for such term as may be prescribed by the Statutes.

Other authorities of the University.

25. The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University shall be provided for in the manner prescribed by the Statutes.

University Boards.

University Boards.

26. The University shall include a Residence, Health and Discipline Board and such other Boards as may be prescribed by the Statutes.

Constitution, etc., of Boards to be prescribed by Ordinances.

27. The constitution, powers and duties of the Residence, Health and Discipline Board and of all other Boards of the University shall be prescribed by the Ordinances.

Statutes, Ordinances and Regulations.

Statutes.

28. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(*a*) the conferment of honorary degrees:

(*b*) the institution of Fellowships, Scholarships, Exhibitions and Prizes;

(*c*) the term of office and conditions of service of the Vice-Chancellor;

(*d*) the designations and powers of the officers of the University;

(*e*) the constitution, powers and duties of the authorities of the University;

(*f*) the institution of Colleges and Halls and their maintenance;

(*g*) the recognition and management of Colleges and Halls not maintained by the University, and the withdrawal of such recognition;

(*h*) the mode of appointment and recognition of teachers of the University;

(*i*) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers, clerical staff and servants of the University;

(*j*) the maintenance of a register of registered graduates; and

(*k*) all matters which by this Act are to be or may be prescribed by the Statutes.

Statutes how made.

29. (*1*) The first Statutes shall be those set out in the Schedule.

(*2*) The Statutes may be amended, repealed or added to by Statutes made by the Court in the manner hereinafter appearing.

(*3*) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court. Such draft shall be considered by the Court at its next meeting. The Court may pass the Statute, or a part of it, in the form in which it has been proposed, or may reject the Statute or part of it, or may return the Statute to the Executive Council for reconsideration, either in whole or in part, together with any amendments which the Court may suggest.

(*4*) Where any Statute or part of a Statute has been returned to the Executive Council for reconsideration and there is disagreement between the Court and the Executive Council in relation thereto, the matter shall be referred for decision to the Governor General in Council, whose decision shall be final.

(*5*) Where any Statute has been passed or a draft of a Statute or part thereof has been rejected by the Court, it shall be submitted to the Governor General in Council, who may refer the Statute or draft back to the Court for further consideration or, in the case of a Statute passed by the Court, assent thereto or withhold his assent. A Statute passed by the Court shall have no validity until it has been assented to by the Governor General in Council.

(6) The Executive Council shall not propose the draft of any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court, and shall be submitted to the Governor General in Council.

(7) Any member of the Court may propose to the Court the draft of any Statute and the Court may refer such draft for consideration to the Executive Council, which may either reject the proposal or submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply in the case of any draft so submitted as they apply in the case of a draft proposed to the Court by the Executive Council.

Ordinances.

30. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(*a*) the admission of students to the University and their enrolment as such;

(*b*) the courses of study to be laid down for all degrees and diplomas of the University;

(*c*) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University and shall be eligible for degrees and diplomas;

(*d*) the conditions of residence of the students of the University;

(*e*) the emoluments and conditions of service of teachers of the University;

(*f*) the fees to be charged for courses of study in the University and for admission to the examinations, degrees, and diplomas of the University;

(*g*) the giving of religious instruction;

(*h*) the formation of Departments of teaching in the Faculties;

(*i*) the constitution, powers and duties of the Boards of the University;

(*j*) the conduct of examinations; and

(*k*) all matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

Ordinances how made.

31. (*1*) Save as otherwise provided in this section, Ordinances shall be made by the Executive Council:

Provided that—

(*i*) no Ordinance shall be made affecting the conditions of residence of students, except after consultation with the Residence, Health and Discipline Board, and

(*ii*) no Ordinance shall be made—

(*a*) affecting the admission or enrolment of students, or prescribing examinations to be recognized as equivalent to the University examinations or prescribing the further qualifications mentioned in sub-section (*2*) of section 36 for admission to the degree courses of the University, or

(*b*) affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study,

unless a draft of such Ordinance has been proposed by the Academic Council.

(*2*) The Executive Council shall not have power to amend any draft proposed by the Academic Council under the provisions of sub-section (*1*), but may reject it or return it to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Executive Council may suggest.

(*3*) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Governor General in Council and the Court, and shall be considered by the Court at its next meeting. The Court shall have power, by a resolution passed by a majority of not less than two-thirds of the members voting, to cancel any Ordinance made by the Executive Council, and such Ordinance shall, from the date of such resolution, be void.

(*4*) The Governor General in Council may, at any time after any Ordinance has been considered by the Court, signify to the Executive Council his disallowance of such Ordinance, and, from the date of receipt by the Executive Council of intimation of such disallowance, such Ordinance shall become void.

(*5*) The Governor General in Council may direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance. An order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order, or on the expiration of fifteen days from the date of consideration of the Ordinance by the Court, whichever period expires later.

(*6*) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Governor General in Council who may, if he approves the draft, make the Ordinance. An Ordinance made under this sub-section shall cease to have effect on the expiration of six months from the making thereof.

Regulations.

32. (*1*) The authorities and the Boards of the University may make Regulations consistent with this Act, the Statutes and the Ordinances—

(*a*) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(*b*) providing for all matters which by this Act, the Statutes or the Ordinances are to be prescribed by Regulations; and

(*c*) providing for all other matters solely concerning such authorities and Boards and not provided for by this Act, the Statutes or the Ordinances.

(*2*) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings, and for the keeping of a record of the proceedings of meetings.

(*3*) The Executive Council may direct the amendment, in such manner as it may specify, of any Regulation made under this section or the annulment of any Regulation made under sub-section (*1*):

Provided that any authority or Board of the University which is dissatisfied with any such direction may appeal to the Governor General in Council, whose decision in the matter shall be final.

Residence.

Residence.

33. Every student of the University shall reside in a College or a Hall, or under such conditions as may be prescribed by the Statutes and the Ordinances.

Colleges.

34. (*1*) The Colleges shall be such as may be named in the Statutes.

(*2*) The conditions of residence in the Colleges shall be prescribed by the Ordinances, and every College shall be subject to inspection by any member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University authorized in this behalf by the Executive Council.

Halls.

35. (*1*) The Halls shall be such as may be maintained by the University or approved and recognized by the Executive Council on such general or special conditions as may be prescribed by the Ordinances.

(*2*) The Wardens and superintending staff of the Halls shall be appointed in the manner prescribed by the Statutes.

(*3*) The conditions of residence in the Halls shall be prescribed by the Ordinances, and every Hall shall be subject to inspection by any member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University or other person authorized in this behalf by the Executive Council.

(*4*) The Executive Council shall have power to suspend or withdraw the recognition of any Hall which is not conducted in accordance with the conditions prescribed by the Ordinances.

Admission and Examinations.

36. (*1*) Admission of students to the University shall be made by an admission committee (including at least one Principal) appointed for that purpose by the Academic Council. Admission to University courses.

(*2*) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force, or an examination recognized in accordance with the provisions of this section as equivalent thereto, and possess such further qualifications as may be prescribed by the Ordinances. Any such qualification may be tested by examination notwithstanding anything contained in sub-section (*5*) of section 7:

Provided that, during a period of five years from the commencement of this Act and such further period as the Governor General in Council may direct, any student who has passed a Matriculation Examination of any such University, or any examination recognised in accordance with the provisions of this section as equivalent thereto, may be deemed eligible for admission to the University.

(*3*) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances.

(*4*) The University shall not, save with the previous sanction of the Governor General in Council, recognize (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University, or, as equivalent to the Intermediate or Matriculation Examination of an Indian University, any examination conducted by any other authority.

37. (*1*) Subject to the provisions of this Act and of the Statutes, all arrangements for the conduct of examinations shall be made by the Academic Council in such manner as may be prescribed by this Act and the Ordinances. Examinations.

(*2*) If, during the course of an examination, any examiner is for any cause incapable of acting as such, the Vice-Chancellor shall appoint an examiner to fill the vacancy, and shall report the appointment to the Executive Council.

(*3*) At least one examiner who is not a member of the University shall be appointed for each subject included in a Department of teaching and forming part of the course which is required for a University degree.

(*4*) The Academic Council shall appoint examination committees, consisting of members of its own body or of other persons or of both, as it thinks fit, to moderate examination questions, to moderate and prepare the results of the examinations and to report such results to the Executive Council for publication.

Annual Report and Accounts.

Annual report.

38. The annual report of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Court on or before such date as may be prescribed by the Statutes, and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council.

Annual accounts.

39. (*1*) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Governor General in Council for the purposes of audit.

(*2*) The accounts when audited shall be published by the Executive Council in the Gazette of India, and copies thereof shall, together with copies of the audit report, if any, be submitted to the Court and to the Governor General in Council. The Executive Council shall also submit to the Court, on or before such date as may be prescribed by the Statutes, a statement of the financial estimates for the ensuing year.

(*3*) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting, and the Court may pass resolutions thereon and communicate the same to the Executive Council.

Supplementary Provisions.

Removal of names of registered graduates.

40. The Chancellor shall, with the concurrence of not less than two-thirds of the members of the Court for the time being in India, have power to remove the name of any person from the register of registered graduates.

Disputes as to constitution of University authorities and bodies.

41. If any question arises whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Chancellor, whose decision thereon shall be final.

Constitution of committees.

42. Where any authority of the University is given power by this Act or the Statutes to appoint committees, such committees shall, save as otherwise provided, consist of members of the authority concerned and of such other persons (if any) as the authority in each case may think fit.

Filling of casual vacancies.

43. All casual vacancies among the members (other than *ex-officio* members) of any authority or other body of the University shall be filled, as soon as conveniently may be, by the person or body who appointed, elected or co-opted the member whose place has become vacant, and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Proceedings of University authorities and bodies not invalidated by vacancies.

44. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

Tribunal of Arbitration.

45. Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned, and an umpire appointed by the Chancellor. The decision of the Tribunal shall be final, and no suit shall lie in any Civil Court in respect of the matters decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section, within the meaning of the [1]Indian Arbitration Act, 1899, and all the provisions of that Act, with the exception of section 2 thereof, shall apply accordingly.

IX of 1899.

Pension and provident funds.

46. (*1*) The University shall constitute, for the benefit of its officers, teachers, clerical staff and servants, in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may deem fit.

(*2*) Where any such pension, insurance or provident fund has been so constituted, the Governor General in Council may declare that the provisions of the [2]Provident Funds Act, 1897, shall apply to such fund as if it were a Government Provident Fund.

IX of 1897.

Transitory Provisions.

Removal of difficulties.

47. If any difficulty arises with respect to the establishment of the University or in connection with the first meeting of any authority of the University or otherwise in first giving effect to the provisions of this Act, the Governor General in Council may, at any time before all the authorities of the University have been constituted, by order make any appointment or do any thing, consistent so far as may be with the provisions of this Act and the Statutes, which appears to him necessary or expedient for the purpose of removing the difficulty, and every such order shall have effect as if such appointment or action had been made or taken in the manner provided in this Act:

Provided that, before making any such order, the Governor General in Council shall ascertain and consider the opinion of the Vice-Chancellor, if a Vice-Chancellor has been appointed, and of such of the authorities of the University as have been constituted, on the proposed order.

Completion of courses for students at Delhi Colleges.

48. Notwithstanding anything contained in this Act or the Ordinances, any student of any of the following Colleges at Delhi, namely,

[1] General Acts, Vol. V.
[2] General Acts, Vol. IV.

the St. Stephen's College, the Hindu College and the Ramjas College, who, immediately prior to the commencement of this Act, was studying for any examination of the University of the Punjab higher than the Intermediate Examination, shall be permitted to complete his course in preparation therefor, and the University shall provide for such students instruction and examinations in accordance with the Prospectus of Studies of the University of the Punjab.

THE SCHEDULE.

[See section 29 (1).]

THE FIRST STATUTES OF THE UNIVERSITY.

Definitions.

1. In these Statutes, unless there is anything repugnant in the subject or context,—

(*a*) " the Act " means the Delhi University Act, 1922, and " section " means a section of the Act; and

(*b*) " officers," " authorities," " Professors," " Readers," " Lecturers," " clerical staff " and " servants " mean, respectively, officers, authorities, Professors, Readers, Lecturers, clerical staff and servants of the University.

Constitution of the Court.

2. (*1*) In addition to the officers mentioned in sub-section (*1*) of section 18, the following persons shall be *ex-officio* members of the Court, namely:—

(*i*) the Chief Commissioner of Delhi;

(*ii*) the Director-General, Indian Medical Service;

(*iii*) the Educational Commissioner with the Government of India;

(*iv*) the Director of Public Instruction in the Punjab;

(*v*) the Superintendent of Education, Delhi and Ajmer-Merwara;

(*vi*) the Chairman of the Punjab Chamber of Commerce;

(*vii*) the Chairman of the Delhi Municipality;

(*viii*) the Chairman of the Delhi District Board;

(*ix*) the Senior Officer serving in the Public Works Department under the Chief Commissioner of Delhi;

(*x*) the Senior Medical Officer, Delhi;

(*xi*) the Principals of the Intermediate Colleges in Delhi which prepare candidates for admission to the University;

(*xii*) the Wardens.

(*2*) The number of graduates to be elected as members of the Court by the registered graduates from among their own body shall be twenty-five.

(*3*) The number of teachers to be elected as members of the Court by the teachers other than Professors and Readers shall be ten.

(*4*) The number of persons to be elected as members of the Court by associations or other bodies approved in this behalf by the Chancellor shall not exceed eight.

(*5*) The number of persons to be elected by the elected Members of the Council of State and the Legislative Assembly from among their own numbers shall be two and four, respectively.

(*6*) The number of persons to be appointed by the Chancellor under clause (*xv*) of sub-section (*1*) of section 18 shall be fifteen.

(*7*) Save as otherwise provided, members of the Court other than *ex-officio* members shall hold office for a period of three years:

Provided that members elected under clause (*xii*) of sub-section (*1*) of section 18 shall hold office so long only within the said period as they continue to be teachers.

Constitution of the Executive Council.

3. (*1*) The members of the Executive Council, in addition to the Vice-Chancellor, the Rector and the Treasurer, shall be—

Class I.—Ex-officio members.

(*i*) The Superintendent of Education, Delhi and Ajmer-Merwara;

(*ii*) the Deans of the Faculties;

(*iii*) the Principals.

Class II.—Other members.

(*iv*) Five members of the Court elected by the Court at its annual meeting, of whom at least two shall be graduates of the University elected by the registered graduates from among their own number;

(*v*) two members of the Academic Council elected by the Academic Council; and

(*vi*) two persons nominated by the Chancellor.

(*2*) Members other than *ex-officio* members shall hold office for a period of three years:

Provided that members elected by any body of persons from among their own number shall hold office so long only within the said period as they continue to be members of the body which elected them.

Powers of the Executive Council.

4. Subject to the provisions of the Act, the Executive Council shall have the following powers, namely:—

(*a*) to institute, at its discretion, such Professorships, Readerships, Lectureships, or other teaching posts as may be proposed by the Academic Council;

(*b*) to abolish or suspend, after report from the Academic Council thereon, any Professorship, Readership, Lectureship, or other teaching post;

(*c*) to appoint or recognize teachers of the University and to appoint officers, clerical staff and servants, in accordance with the Statutes:

(*d*) to appoint all examiners after considering the recommendations of the Academic Council;

(*e*) to delegate, subject to such conditions as may be prescribed by Regulations made by the Executive Council, its power to appoint and recognize teachers of the University and to appoint officers, clerical staff and servants to such person or authority as the Executive Council may determine;

(*f*) to manage and regulate the finances, accounts, investments, property and all administrative affairs whatsoever of the University, and, for that purpose, to appoint such agents as it may think fit;

(*g*) to accept bequests, donations and transfers of property to the University:

Provided that all such bequests, donations and transfers shall be reported to the Court at its next meeting;

(*h*) to provide the buildings, premises, furniture, apparatus, equipment and other means needed for carrying on the work of the University;

(*i*) after report from the Finance Committee, to enter into, vary, carry out, confirm and cancel contracts on behalf of the University; and

(*j*) to invest any monies belonging to the University, including any unapplied income, in any of the securities described in section 20 of the [1]Indian Trusts Act, 1882, or in the purchase of immoveable property in India, with the like power of varying such investments; or to place on fixed deposit in any bank approved in this behalf by the Governor General in Council any portion of such monies not required for immediate expenditure. II of 1882.

The Academic Council.

5. (*1*) The members of the Academic Council, in addition to the Vice-Chancellor and the Rector, shall be—

Class I.—Ex-officio members.

(*i*) The Deans of the Faculties;

(*ii*) the Principals;

(*iii*) the Professors and Readers; and

(*iv*) the Librarian of the University.

[1] General Acts, Vol. III.

Class II.—Other members.

(*v*) Persons, if any, not exceeding three in number and not being teachers, appointed by the Chancellor on account of their possessing expert knowledge in such subjects of study as may be selected by the *ex-officio* members of the Academic Council.

(*2*) The Academic Council as constituted under sub-clause (*1*) shall co-opt as members teachers of the University not exceeding one-tenth of its numbers as so constituted.

(*3*) Members other than *ex-officio* members shall hold office for a period of three years:

Provided that teachers of the University co-opted as such shall hold office so long only within the said period as they continue to be teachers of the University.

Powers of the Academic Council.

6. The Academic Council shall have the following powers, namely:—

(*a*) to make proposals to the Executive Council for the institution of Professorships, Readerships, Lectureships or other teaching posts, and in regard to the duties and emoluments thereof;

(*b*) to make Regulations for, and to award in accordance with such Regulations, Fellowships, Scholarships, Exhibitions, bursaries, medals and other rewards;

(*c*) to recommend examiners for appointment after report from the Faculties concerned;

(*d*) to control the University Library, to frame Regulations regarding its use, and to appoint a Library Committee under the general control of the Academic Council to manage the affairs of the Library;

(*e*) to assign subjects to the Faculties;

(*f*) to assign teachers to the Faculties;

(*g*) to promote research within the University and to require reports on such research from the persons employed thereon;

(*h*) to provide for the inspection of Colleges and Halls in respect of the instruction and discipline therein, and to submit reports thereon to the Executive Council; and

(*i*) to organize the teaching of the University and to control the work of teachers and Colleges.

The Faculties.

7. (*1*) Each Faculty shall consist of—

(*i*) the heads of the Departments comprised in the Faculty;

(*ii*) such teachers of subjects assigned to the Faculty as may be appointed to the Faculty by the Academic Council;

(*iii*) such teachers of subjects not assigned to the Faculty but having, in the opinion of the Academic Council, an important bearing on those subjects, as may be appointed to the Faculty by the Academic Council; and

(*iv*) such other persons as may be appointed to the Faculty by the Academic Council on account of their possessing expert knowledge in a subject or subjects assigned to the Faculty.

(*2*) The total number of members of each Faculty shall not exceed, in the case of the Faculties of Arts and Science, twenty-five, and in the case of any other Faculty, fifteen, except with the sanction of the Chancellor given on the request of the Academic Council.

Powers of the Faculties.

8. Subject to the provisions of the Act, each Faculty shall have the following powers, namely:—

(*a*) to constitute Committees of Courses and Studies; and

(*b*) to recommend to the Academic Council, after consulting the Committees of Courses and Studies, the names of examiners in subjects assigned to the Faculty.

Board of Co-ordination.

9. There shall be a Board of Co-ordination composed of the Vice-Chancellor, who shall be Chairman thereof, the Rector, the Deans of the Faculties and the Registrar, to co-ordinate the teaching of the University, and in particular to co-ordinate the work and time-tables of the various Faculties, and to assign lecture-rooms, laboratories, and other rooms to the Faculties.

The Dean.

10. (*1*) The Dean of each Faculty shall be the executive officer of the Faculty, and shall preside at its meetings. He shall hold office for three years.

(*2*) He shall issue the lecture lists of the University in the Departments comprised in the Faculty, and shall be responsible for the conduct of teaching therein.

(*3*) He shall have the right to be present and to speak at any meeting of any committee of the Faculty, but not to vote unless he is a member of the committee.

Warden.

11. The appointment of a Warden shall, in the case of a Hall maintained by the University, be made by the Executive Council, and in other cases be subject to the approval of the Executive Council.

Attachment to Colleges and Halls.

12. Every student not residing in a College or Hall shall be attached to a College or Hall for tutorial help and disciplinary supervision and for such other purposes as may be prescribed by the Ordinances.

Withdrawal of degrees and diplomas.

13. The Court may, on the recommendation of the Executive Council, by a resolution passed with the concurrence of not less than two-

thirds of the members voting, withdraw any degree or diploma conferred by the University.

Honorary degrees.

14. (*1*) All proposals for the conferment of honorary degrees shall be made by the Academic Council to the Executive Council, and shall require the assent of the Court before submission to the Chancellor for confirmation:

Provided that, in cases of urgency, the Chancellor may act on the recommendation of the Executive Council only.

(*2*) Any honorary degree conferred by the University may, with the previous approval of two-thirds of the members present at any meeting of the Court and the sanction of the Chancellor, be withdrawn by the Executive Council.

Registered graduates.

15. The following persons shall, on payment of such fees as may be prescribed by the Statutes, be entitled to have their names enrolled in the register of registered graduates, namely:—

(*a*) for a period of five years from the commencement of the Act, all graduates of three years' standing or upwards of any other Indian University incorporated by any law for the time being in force, or of any University in the United Kingdom, who reside or carry on business in the Province of Delhi and apply to the University to be granted *ad eundem* degrees of the University; and

(*b*) all graduates of the University of three years' standing and upwards.

Officers.

16. There shall be the following officers, namely:—

(*i*) a Proctor for the maintenance of the general discipline of the University, to whom the Vice-Chancellor may delegate such of his disciplinary powers as he may think fit; and

(*ii*) a Librarian for the University Library.

Committees of selection.

17. (*1*) No person shall be appointed or recognized as a teacher of the University except on the nomination of a committee of selection constituted for the purpose as follows, namely:—

(*i*) the Vice-Chancellor;

(*ii*) the Rector;

(*iii*) the Dean of the Faculty concerned;

(*iv*) two members of the Executive Council selected by the Executive Council;

(*v*) two members of the Academic Council selected by the Academic Council on the ground of their special knowledge of, or interest in, the subject or subjects with which the teacher will be concerned;

(*vi*) a representative of the Governing Body of each College; and

(*vii*) three persons (two of whom shall not be officers of the University) appointed by the Chancellor.

(*2*) Committees of selection appointed under sub-clause (*1*) shall report to the Executive Council which shall, if it accepts the nomination of the committee, make the appointment or confer the recognition, as the case may be. If the Executive Council does not accept the nomination of the committee, it shall refer the case to the Chancellor, who shall appoint or recognize such person as he thinks fit.

ACT No. IX OF 1922[1].

[5th March, 1922.]

An Act further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of compensation in respect of false or vexatious claims or defences in civil suits or proceedings.

WHEREAS it is expedient further to amend the [2]Provincial Small Cause Courts Act, 1887, and the [3]Code of Civil Procedure, 1908; It is hereby enacted as follows:— IX of 1887. V of 1908.

Short title and commencement.

1. (*1*) This Act may be called the Civil Procedure (Amendment) Act, 1922.

(*2*) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that this Act shall come into force throughout the Province or in any part thereof on such [4]date as may be specified in the notification.

Insertion of new section 35A in Act V of 1908.

2. In Part I of the [3]Code of Civil Procedure, 1908 (hereinafter referred to as the said Code), after section 35 the following section shall be inserted, namely:— V of 1908.

Compensatory costs in respect of

"35A. (*1*) If in any suit or other proceeding, not being an appeal, any party objects to the claim or defence on the ground that the claim

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 64; and for Report of Select Committee, *see ibid*, 1922, Pt. V, p. 85.

[2] General Acts, Vol. IV.

[3] General Acts, Vol. VI.

[4] This Act was brought into force in—
Bihar and Orissa from 15th November 1922, *see* B. & O. Gazette, 1922, Pt. II, p. 1062.
Parts of Burma from 15th November 1922, *see* Bur. Gazette, 1922, Pt. I, p. 1002.
The Central Provinces from 3rd March 1923, *see* Central Provinces Gazette, 1923, Pt. I, p. 208.
Assam from 16th April 1923, *see* Assam Gazette, 1923, Pt. II, p. 346.

or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if thereafter, as against the objector, such claim or defence is disallowed, abandoned or withdrawn in whole or in part, the Court, if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof, may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the objector, by the party by whom such claim or defence has been put forward, of costs by way of compensation. false or vexatious claims or defences.

(*2*) No Court shall make any such order for the payment of an amount exceeding one thousand rupees or exceeding the limits of its pecuniary jurisdiction, whichever amount is less:

Provided that where the pecuniary limits of the jurisdiction of any Court exercising the jurisdiction of a Court of Small Causes under the IX of 1887. [1]Provincial Small Cause Courts Act, 1887, and not being a Court constituted under that Act, are less than two hundred and fifty rupees, the High Court may empower such Court to award as costs under this section any amount not exceeding two hundred and fifty rupees and not exceeding those limits by more than one hundred rupees:

Provided, further, that the High Court may limit the amount which any Court or class of Courts is empowered to award as costs under this section.

(*3*) No person against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of any claim or defence made by him.

(*4*) The amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence."

3. In sub-section (*1*) of section 104 of the said Code,— Amendment of section 104, Act V of 1908.

(*i*) after clause (*f*) the following clause shall be inserted, namely:—

"(*ff*) an order under section 35A"; and

(*ii*) after clause (*i*) the following proviso shall be inserted, namely:—

"Provided that no appeal shall lie against any order specified in clause (*ff*) save on the ground that no order, or an order for the payment of a less amount, ought to have been made."

4. To rule 33 of Order XLI of the First Schedule to the said Code, the following proviso shall be added, namely:— Amendment of Order XLI, Schedule I, Act V of 1908.

"Provided that the Appellate Court shall not make any order under section 35A, in pursuance of any objection on which the Court from

[1] General Acts, Vol. IV.

whose decree the appeal is preferred has omitted or refused to make such order."

IX of 1887. **5.** In section 24 of the [1]Provincial Small Cause Courts Act, 1887, for the words and figures "section 588, clause (*29*) of the Code of Civil Procedure" the words and figures "clause (*ff*) or clause (*h*) of sub-section (*1*) of section 104 of the [2]Code of Civil Procedure, 1908," shall be substituted; and after the words "District Court," the following words shall be added, namely:— Amendment of section 24, Act IX of 1887.

V of 1908.

"on any ground on which an appeal from such order would lie under that section."

ACT No. X OF 1922[3].

[*5th March, 1922.*]

An Act further to amend the Indian Limitation Act, 1908.

IX of 1908. WHEREAS it is expedient further to amend the [2]Indian Limitation Act, 1908; It is hereby enacted as follows:—

1. This Act may be called the Indian Limitation (Amendment) Act, 1922. Short title.

IX of 1908. **2.** In section 5 of the [2]Indian Limitation Act, 1908 (hereinafter referred to as the said Act), for the words "by any enactment or rule" the words "by or under any enactment" shall be substituted. Amendment of section 5, Act IX of 1908.

3. In section 29 of the said Act,— Amendment of section 29, Act IX of 1908.

(*a*) for sub-section (*1*) the following sub-sections shall be substituted, namely:—

"(*1*) Nothing in this Act shall affect section 25 of the [4]Indian Savings

IX of 1872. Contract Act, 1872.

(*2*) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the first schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law—

(*a*) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law; and

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[1] General Acts, Vol. IV.
[2] General Acts, Vol. VI.
[3] For Statement of Objects and Reasons, *see* Gazette of India, Extraordinary, dated 21st February 1921, p. 64; and for Report of Select Committee, *see* Gazette of India, 1921, Pt. V, p. 103, and *ibid*, 1922, Pt. V, p. 73.
[4] General Acts, Vol. II.

(*b*) the remaining provisions of this Act shall not apply"; and

(*b*) sub-sections (*2*) and (*3*) shall be re-numbered (*3*) and (*4*), respectively.

ACT No. XI OF 1922[1].

[*5th March, 1922.*]

An Act to consolidate and amend the law relating to Income-tax and Super-tax.

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Income-tax Act, 1922.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also, within the dominions of Princes and Chiefs in India in alliance with His Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor General in Council in that behalf, and to all other servants of His Majesty in those dominions.

(*3*) It shall come into force on the first day of April, 1922.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " agricultural income " means—

(*a*) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue in British India or subject to a local rate assessed and collected by officers of Government as such;

(*b*) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 159; and for Report of Joint Committee, *see ibid*, 1922, Pt. V, p. 31.

no process has been performed other than a process of the nature described in sub-clause (*ii*);

(*c*) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (*ii*) and (*iii*) of clause (*b*) is carried on:

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building;

(*2*) "assessee" means a person by whom income-tax is payable;

(*3*) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax under section 5;

(*4*) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

(*5*) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 5;

(*6*) "company" means a company as defined in the [1]Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in British India whether incorporated or not, and whether its principal place of business is situate in British India or not, which the Board of Inland Revenue may, by general or special order, declare to be a company for the purposes of this Act; VII of 1913.

(*7*) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 5;

(*8*) "Magistrate" means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government to try offences against this Act;

(*9*) "person" includes a Hindu undivided family;

(*10*) "prescribed" means prescribed by rules made under this Act;

(*11*) "previous year" means—

(*a*) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made,

[1] General Acts, Vol. VII.

or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up:

Provided that, if this option has once been exercised by the assessee, it shall not again be exercised so as to vary the meaning of the expression "previous year" as then applicable to such assessee except with the consent of the Income-tax Officer and upon such conditions as he may think fit; or

(*b*) in the case of any person, business or company or class of person, business or company, such period as may be determined by the Board of Inland Revenue or by such authority as the Board may authorise in this behalf;

(*12*) "principal officer," used with reference to a local authority or a company or any other public body or association, means—

(*a*) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(*b*) any person connected with the authority, company, body or association upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof;

(*13*) "public servant" has the same meaning as in the [1]Indian Penal Code; XLV of 1860.

(*14*) "registered firm" means a firm constituted under an instrument of partnership specifying the individual shares of the partners of which the prescribed particulars have been registered with the Income-tax Officer in the prescribed manner;

(*15*) "total income" means total amount of income, profits and gains from all sources to which this Act applies computed in the manner laid down in section 16; and

(*16*) "unregistered firm" means a firm which is not a registered firm.

CHAPTER I.

Charge of Income-tax.

Charge of income-tax.

3. Where any Act of the Indian Legislature enacts that income-tax shall be charged for any year at any rate or rates applicable to the total income of an assessee, tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act

[1] General Acts, Vol. I.

in respect of all income, profits and gains of the previous year of every individual, company, firm and Hindu undivided family.

Application of Act.

4. (*1*) Save as hereinafter provided, this Act shall apply to all income, profits or gains, as described or comprised in section 6, from whatever source derived, accruing, or arising or received in British India, or deemed under the provisions of this Act to accrue, or arise, or to be received in British India.

(*2*) Profits and gains of a business accruing or arising without British India to a person resident in British India [1][shall, if they are received in or brought into British India, be deemed to have accrued or arisen in British India and to be profits and gains of the year in which they are so received or brought] notwithstanding the fact that they did not so accrue or arise in that year, provided that they are so received or brought in within three years of the end of the year in which they accrued or arose.

Explanation.—Profits or gains accruing or arising without British India shall not be deemed to be received or brought into British India within the meaning of this sub-section by reason only of the fact that they are taken into account in the balance sheet prepared in British India.

(*3*) This Act shall not apply to the following classes of income:—

(*i*) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto.

(*ii*) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.

(*iii*) The income of local authorities.

(*iv*) Interest on securities which are held by, or are the property of, any Provident Fund to which the [2]Provident Funds Act, 1897, applies, or any Provident Insurance Society to which the [3]Provident Insurance Societies Act, 1912, is, or, but for an exemption under that Act, would be, applicable. IX of 1897. V of 1912.

(*v*) Any capital sum received in commutation of the whole or a portion of a pension, or in the nature of consolidated compensation for death or injuries, or in payment of any

[1] These words were substituted for the words "shall be deemed to be profits and gains of the year in which they are received or brought into British India," by s. 2 of the Indian Income-tax (Further Amendment) Act, 1923 (XXVII of 1923), *infra*.

[2] General Acts, Vol. IV.

[3] General Acts, Vol. VII.

insurance policy, or as the accumulated balance at the credit of a subscriber to any such Provident Fund.

(*vi*) Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.

(*vii*) Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employé.

(*viii*) Agricultural income.

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility.

CHAPTER II.

INCOME-TAX AUTHORITIES.

Income-tax authorities.

5. (*1*) There shall be the following classes of Income-tax authorities for the purposes of this Act, namely:—

(*a*) a Board of Inland Revenue,

(*b*) Commissioners of Income-tax,

(*c*) Assistant Commissioners of Income-tax, and

(*d*) Income-tax Officers.

(*2*) The Board of Inland Revenue shall consist of one or more persons appointed by the Governor General in Council.

(*3*) There shall be a Commissioner of Income-tax for each province who shall be appointed by the Governor General in Council after consideration of any recommendation made by the Local Government in this behalf.

(*4*) Assistant Commissioners of Income-tax and Income-tax Officers shall, subject to the control of the Governor General in Council, be appointed by the Commissioner of Income-tax by order in writing. They shall perform their functions in respect of such classes of persons and such classes of income and in respect of such areas as the Commissioner of Income-tax may direct. The Commissioner may, by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies references in this Act or in any rules made hereunder to the Income-tax Officer and the Assistant Commissioner shall be deemed to be references to the Assistant Commissioner and the Commissioner, respectively.

(*5*) The Board of Inland Revenue may, by notification in the Gazette of India, appoint Commissioners of Income-tax, Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income, and for such area, as may be specified in the notification, and thereupon the functions so specified shall cease, within the specified area to be performed, in respect of the specified classes of persons or classes of income, by the authorities appointed under sub-sections (*3*) and (*4*).

(*6*) Assistant Commissioners of Income-tax and Income-tax Officers appointed under sub-section (*4*) shall, for the purposes of this Act, be subordinate to the Commissioner of Income-tax appointed under sub-section (*3*) for the province in which they perform their functions.

CHAPTER III.

TAXABLE INCOME.

Heads of income chargeable to income-tax.

6. Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner hereinafter appearing, namely:—

(*i*) Salaries.
(*ii*) Interest on securities.
(*iii*) Property.
(*iv*) Business.
(*v*) Professional earnings.
(*vi*) Other sources.

Salaries.

7. (*1*) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits received by him in lieu of, or in addition to, any salary or wages, which are paid by or on behalf of Government, a local authority, a company, or any other public body or association, or by or on behalf of any private employer:

Provided that the tax shall not be payable in respect of any sum deducted under the authority of Government from the salary of any individual for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary.

[1][*Explanation.*—The right of a person to occupy free of rent as a place of residence any premises provided by his employer is a perquisite for the purposes of this sub-section.]

(*2*) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British

[1] This *Explanation* was added by s. 2 of the Indian Income-tax (Amendment) Act, 1923 (XV of 1923), *infra*.

subject or any servant of His Majesty in any part of India by Government or by a local authority established by the Governor General in Council.

Interest on securities.

8. The tax shall be payable by an assessee under the head " Interest on securities " in respect of the interest receivable by him on any security of the Government of India or of a Local Government, or on debentures or other securities for money issued by or on behalf of a local authority or a company:

Provided that no income-tax shall be payable on the interest receivable on any security of the Government of India issued or declared to be income-tax free:

Provided, further, that the income-tax payable on the interest receivable on any security of a Local Government issued income-tax free shall be payable by that Local Government.

Property.

9. (*1*) The tax shall be payable by an assessee under the head " Property " in respect of the *bonâ fide* annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of his business, subject to the following allowances, namely:—

(*i*) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value;

(*ii*) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value;

(*iii*) the amount of any annual premium paid to insure the property against risk of damage or destruction;

(*iv*) where the property is subject to a mortgage or charge or to a ground rent, the amount of any interest on such mortgage or charge or of any such ground rent;

(*v*) any sums paid on account of land-revenue in respect of the property;

(*vi*) in respect of collection charges, a sum not exceeding the prescribed maximum;

(*vii*) in respect of vacancies, such sum as the Income-tax Officer may determine having regard to the circumstances of the case:

Provided that the aggregate of the allowances made under this sub-section shall in no case exceed the annual value.

(*2*) For the purposes of this section, the expression " annual value " shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year:

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes of this section, be deemed not to exceed ten per cent. of the total income of the owner.

Business.

10. (*1*) The tax shall be payable by an assessee under the head " Business " in respect of the profits or gains of any business carried on by him.

(*2*) Such profits or gains shall be computed after making the following allowances, namely:—

(*i*) any rent paid for the premises in which such business is carried on, provided that when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the proportional part so used;

(*ii*) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed;

(*iii*) in respect of capital borrowed for the purposes of the business, where the payment of interest thereon is not in any way dependent on the earning of profits, the amount of the interest paid;

Explanation:—Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause;

(*iv*) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the business, the amount of any premium paid;

(*v*) in respect of current repairs to such buildings, machinery, plant, or furniture, the amount paid on account thereof;

(*vi*) in respect of depreciation of such buildings, machinery, plant, or furniture being the property of the assessee, a sum equivalent to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed:

Provided that—

(*a*) the prescribed particulars have been duly furnished;

(*b*) where full effect cannot be given to any such allowance in any year owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or, if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years; and

(*c*) the aggregate of all such allowances made under this Act or any Act repealed hereby, or under the [1]Indian Income-tax Act, 1886, shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture, as the case may be;

II of 1886.

(*vii*) in respect of any machinery or plant which, in consequence of its having become obsolete, has been sold or discarded, the difference between the original cost to the assessee of the machinery or plant as reduced by the aggregate of the allowances made in respect of depreciation under clause (*vi*), or any Act repealed hereby, or the [1]Indian Income-tax Act, 1886, and the amount for which the machinery or plant is actually sold, or its scrap value;

II of 1886.

(*viii*) any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the business;

(*ix*) any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains.

(*3*) In sub-section (*2*), the word "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section.

Professional earnings.

11. (*1*) The tax shall be payable by an assessee under the head "Professional earnings" in respect of the profits or gains of any profession or vocation followed by him.

(*2*) Such profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purposes of such profession or vocation, provided that no allowance shall be made on account of any personal expenses of the assessee.

[1] General Acts, Vol. III.

(*3*) Professional fees paid in any part of India to a person ordinarily resident in British India shall be deemed to be profits or gains chargeable under this head.

Other sources.

12. (*1*) The tax shall be payable by an assessee under the head "Other sources" in respect of income, profits and gains of every kind and from every source to which this Act applies (if not included under any of the preceding heads).

(*2*) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, provided that no allowance shall be made on account of any personal expenses of the assessee.

Method of accounting.

13. Income, profits and gains shall be computed, for the purposes of sections 10, 11 and 12, in accordance with the method of accounting regularly employed by the assessee:

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

Exemptions of a general nature.

14. (*1*) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family.

(*2*) The tax shall not be payable by an assessee in respect of—

(*a*) any sum which he receives by way of dividend as a shareholder in a company where the profits or gains of the company have been assessed to income-tax; or

(*b*) such an amount of the profits or gains of any firm which have been assessed to income-tax as is proportionate to his share in the firm.

Exemption in the case of life insurances.

15. (*1*) The tax shall not be payable by an assessee in respect of any sums paid by him to effect an insurance of his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any Provident Fund to which the [1]Provident Funds Act, 1897, applies, or to any Provident Fund which complies with the provisions of the [2]Provident Insurance Societies Act, 1912, or has been exempted from the provisions of that Act. IX of 1897. V of 1912.

(*2*) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (*1*) any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member.

[1] General Acts, Vol. IV.
[2] General Acts, Vol. VII.

(*3*) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the proviso to sub-section (*1*) of section 7, exceed one-sixth of the total income of the assessee.

Exemptions and exclusions in determining the total income.

16. (*1*) In computing the total income of an assessee sums exempted under the proviso to sub-section (*1*) of section 7, the provisos to section 8, sub-section (*2*) of section 14 and section 15, shall be included.

(*2*) For the purposes of sub-section (*1*), any sum mentioned in clause (*a*) of sub-section (*2*) of section 14 shall be increased by the amount of income-tax payable by the company in respect of the dividend received.

Reduction of tax when margin above a certain limit is small.

17. Where owing to the fact that the total income of any assessee has reached or exceeded a certain limit, he is liable to pay income-tax or to pay income-tax at a higher rate, the amount of income-tax payable by him shall, where necessary, be reduced so as not to exceed the aggregate of the following amounts, namely:—

(*a*) the amount which would have been payable if his total income had been a sum less by one rupee than that limit, and

(*b*) the amount by which his total income exceeds that sum.

CHAPTER IV.

Deductions and Assessment.

Payment by deduction at source.

18. (*1*) Income-tax shall, unless otherwise prescribed in the case of any security of the Government of India, be leviable in advance by deduction at the time of payment in respect of income chargeable under the following heads:—

(*i*) "Salaries"; and

(*ii*) "Interest on securities."

(*2*) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the rate applicable to the estimated income of the assessee under this head:

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct.

(*3*) The person responsible for paying any income chargeable under the head "Interest on securities" shall, at the time of payment, deduct income-tax on the amount of the interest payable at the maximum rate.

(*4*) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(*5*) Any deduction made in accordance with the provisions of this section shall be treated as a payment of income-tax on behalf of the person from whose income the deduction was made, or of the owner of the security, as the case may be, and credit shall be given to him therefor in the assessment, if any, made for the following year under this Act:

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund.

(*6*) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the Government of India, or as the Board of Inland Revenue directs.

(*7*) If any such person does not deduct and pay the tax as required by this section, he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(*8*) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery.

(*9*) Every person deducting income-tax in accordance with the provisions of sub-section (*3*) shall, at the time of payment of interest, furnish to the person to whom the interest is paid a certificate to the effect that income-tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed.

Payment in other cases.

19. In the case of income chargeable under any other head than those mentioned in sub-section (*1*) of section 18, and in any case where income-tax has not been deducted in accordance with the provisions of that section, the tax shall be payable by the assessee direct.

Certificate by company to shareholders receiving dividends.

20. The principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed.

Annual return.

21. The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association, and every private employer shall prepare, and, within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form, a return in writing showing—

(*a*) the name and, so far as it is known, the address, of every person who was receiving on the said 31st day of March,

or has received during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head " Salaries " of such amount as may be prescribed;

(*b*) the amount of the income so received by each such person, and the time or times at which the same was paid;

(*c*) the amount deducted in respect of income-tax from the income of each such person.

Return of income.

22. (*1*) The principal officer of every company shall prepare, and, on or before the fifteenth day of June in each year, furnish to the Income-tax Officer a return, in the prescribed form and verified in the prescribed manner, of the total income of the company during the previous year:

Provided that the Income-tax Officer may, in his discretion, extend the date for the delivery of the return in the case of any company or class of companies.

(*2*) In the case of any person other than a company whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer shall serve a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income during the previous year.

(*3*) If any person has not furnished a return within the time allowed by or under sub-section (*1*) or sub-section (*2*), or having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made, and any return so made shall be deemed to be a return made in due time under this section.

(*4*) The Income-tax Officer may serve on the principal officer of any company or on any person upon whom a notice has been served under sub-section (*2*) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require:

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

Assessment.

23. (*1*) If the Income-tax Officer is satisfied that a return made under section 22 is correct and complete, he shall assess the total income

of the assessee, and shall determine the sum payable by him on the basis of such return.

(*2*) If the Income-tax Officer has reason to believe that a return made under section 22 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return.

(*3*) On the day specified in the notice issued under sub-section (*2*), or as soon afterwards as may be, the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment.

(*4*) If the principal officer of any company or any other person fails to make a return under sub-section (*1*) or sub-section (*2*) of section 22, as the case may be, or fails to comply with all the terms of a notice issued under sub-section (*4*) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (*2*) of this section, the Income-tax Officer shall make the assessment to the best of his judgment.

Set off of loss in computing aggregate income.

24. (*1*) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year.

(*2*) Where the assessee is a registered firm, and the loss sustained cannot wholly be set off under sub-section (*1*), any member of such firm shall be entitled to have set off against any income, profits or gains of the year in which the loss was sustained in respect of which the tax is payable by him such amount of the loss not already set off as is proportionate to his share in the firm.

Assessment in case of discontinued business.

25. (*1*) Where any business, profession or vocation commenced after the 31st day of March, 1922, is discontinued in any year, an assessment may be made in that year on basis of the income, profits or gains of the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year.

(*2*) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and, where any person fails to give the notice required by this sub-section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income.

profits or gains of the business, profession or vocation up to the date of its discontinuance.

(*3*) Where any business, profession or vocation which was in existence at the commencement of this Act, and on which tax was at any time charged under the provisions of the [1]Indian Income-tax Act, 1918, is discontinued, no tax shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the assessee may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference.

VII of 1918.

(*4*) Where an assessment is to be made under sub-section (*1*) or sub-section (*3*), the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed, or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (*2*) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

Change in ownership of business.

26. Where any change occurs in the constitution of a firm or where any person has succeeded to any business, profession or vocation, the assessment shall be made on the firm as constituted, or on the person engaged in the business, profession or vocation, as the case may be, at the time of the making of the assessment.

Cancellation of assessment when cause is shown.

27. Where an assessee or, in the case of a company, the principal officer thereof, within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 22, or that he did not receive the notice issued under sub-section (*4*) of section 22, or sub-section (*2*) of section 23, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last-mentioned notices, the Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23.

Penalty for concealment of income.

28. (*1*) If the Income-tax Officer, the Assistant Commissioner or the Commissioner in the course of any proceedings under this Act, is satisfied that an assessee has concealed the particulars of his income, or has deliberately furnished inaccurate particulars of such income, and

[1] General Acts, Vol. VIII.

has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of income-tax which would have been avoided if the income so returned by the assessee had been accepted as the correct income:

Provided that no such order shall be made, unless the assessee has been heard, or has been given a reasonable opportunity of being heard:

Provided, further, that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(*2*) An Assistant Commissioner or a Commissioner who has made an order under sub-section (*1*) shall forthwith send a copy of the same to the Income-tax Officer.

Notice of demand.

29. When the Income-tax Officer has determined a sum to be payable by an assessee under section 23, or when an order has been passed under sub-section (*2*) of section 25 or section 28 for the payment of a penalty, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment under this Act.

30. (*1*) Any assessee objecting to the amount or rate at which he is assessed under section 23 or section 27, or denying his liability to be assessed under this Act, or objecting to a refusal of an Income-tax Officer to make a fresh assessment under section 27, or to any order against him under sub-section (*2*) of section 25 or section 28, made by an Income-tax Officer, may appeal to the Assistant Commissioner against the assessment or against such refusal or order:

Provided that no appeal shall lie in respect of an assessment made under sub-section (*4*) of section 23, or under that sub-section read with section 27.

(*2*) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to, or of the date of the refusal to make a fresh assessment under section 27, as the case may be; but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(*3*) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

Hearing of appeal.

31. (*1*) The Assistant Commissioner shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

(*2*) The Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income-tax Officer.

(*3*) In disposing of an appeal the Assistant Commissioner may, in the case of an order of assessment,—

(*a*) confirm, reduce, enhance or annul the assessment, or

(*b*) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the Assistant Commissioner may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment,

or, in the cases of an order under sub-section (*2*) of section 25 or section 28,

(*c*) confirm, cancel or vary such order:

Provided that the Assistant Commissioner shall not enhance an assessment unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

Appeals against orders of Assistant Commissioner.

32. (*1*) Any assessee objecting to an order passed by an Assistant Commissioner under section 28 or to an order enhancing his assessment under sub-section (*3*) of section 31, may appeal to the Commissioner within thirty days of the making of such order.

(*2*) The appeal shall be in the prescribed form, and shall be verified in the prescribed manner.

(*3*) In disposing of the appeal the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

Power of review.

33. (*1*) The Commissioner may of his own motion call for the record of any proceeding under this Act which has been taken by any authority subordinate to him or by himself when exercising the powers of an Assistant Commissioner under sub-section (*4*) of section 5.

(*2*) On receipt of the record the Commissioner may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders thereon as he thinks fit:

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard.

Income escaping assessment.

34. If for any reason income, profits or gains chargeable to income-tax has escaped assessment in any year, or has been assessed at too low a rate, the Income-tax Officer may, at any time within one year of the end of that year, serve on the person liable to pay tax on such income, profits or gains, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (*2*) of section 22, and may proceed to assess or re-assess such income, profits or gains, and the provisions

of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

Provided that the tax shall be charged at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be.

Rectification of mistake.

35. (*1*) The Income-tax Officer may, at any time within one year from the date of any demand made upon an assessee, on his own motion rectify any mistake apparent from the record of the assessment, and shall within the like period rectify any such mistake which has been brought to his notice by such assessee:

Provided that no such rectification shall be made, having the effect of enhancing an assessment unless the Income-tax Officer has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(*2*) Where any such rectification has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(*3*) Where any such rectification has the effect of enhancing the assessment, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29, and the provisions of this Act shall apply accordingly.

Tax to be calculated to nearest anna.

36. In the determination of the amount of tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Power to take evidence on oath, etc.

37. The Income-tax Officer, Assistant Commissioner and Commissioner shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the [1]Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of documents; and

(*c*) issuing commissions for the examination of witnesses;

and any proceeding before an Income-tax Officer, Assistant Commissioner or Commissioner under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the [2]Indian Penal Code. XLV of 1860.

[1] General Acts, Vol. VI.
[2] General Acts, Vol. I.

Power to call for information.

38. The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,—

(1) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses;

(2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses.

Power to inspect the register of members of any compan

39. The Income-tax Officer or Assistant Commissioner, or any person authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies, or cause copies to be taken, of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

CHAPTER V.

Liability in Special Cases.

Guardians, trustees and agents.

40. In the case of any guardian, trustee or agent of any person being a minor, lunatic or idiot or residing out of British India (all of which persons are hereinafter in this section included in the term beneficiary) being in receipt on behalf of such beneficiary of any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind, or resident in British India, and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.

Courts of Wards, etc

41. In the case of income, profits or gains chargeable under this Act which are received by the Courts of Wards, the Administrators-General, the Official Trustees or by any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such income, profits or gains are received, and all the provisions of this Act shall apply accordingly.

Non-residents.

42. (*1*) In the case of any person residing out of British India, all profits or gains accruing or arising, to such person, whether directly or indirectly, through or from any business connection or property in British India, shall be deemed to be income accruing or arising within British India, and shall be chargeable to income-tax in the name of the agent of any such person, and such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax:

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come, within British India.

(*2*) Where a person not resident in British India, and not being a British subject or a firm or company constituted within His Majesty's dominions or a branch thereof, carries on business with a person resident in British India, and it appears to the Income-tax Officer or the Assistant Commissioner, as the case may be, that owing to the close connection between the resident and the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between those persons is so arranged, that the business done by the resident in pursuance of his connection with the non-resident produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

Agent to include persons treated as such.

43. Any person employed by or on behalf of a person residing out of British India, or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent:

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability.

Liability in case of a discontinued firm or partnership

44. Where any business, profession or vocation carried on by a firm has been discontinued, every person who was at the time of such discontinuance a member of such firm shall be jointly and severally liable for the amount of the tax payable in respect of the income, profits and gains of the firm.

[1][CHAPTER VA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING.

Liability to tax of occasional shipping.

44A. The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of British India and carries on business in British India in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

Return of profits and gains.

44B. (*1*) Before the departure from any port in British India of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat.

(*2*) On receipt of the return, the Income-tax Officer shall assess the amount referred to in sub-section (*1*), and for this purpose may call for such accounts or documents as he may require, and one-twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port.

(*3*) When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs-collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

Adjustment.

44C. Nothing in this Chapter shall be deemed to prevent a principal from claiming, in any year following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be.]

[1] This Chapter was inserted by s. 3 of the Indian Income-tax (Further Amendment) Act, 1923 (XXVII of 1923), *infra*.

CHAPTER VI.

Recovery of Tax and Penalties.

Tax when payable.

45. Any amount specified as payable in a notice of demand under section 29 or an order under section 31 or section 32 or section 33, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30, the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.

Mode and time of recovery.

46. (*1*) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

(*2*) The Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land-revenue.

(*3*) In any area with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the province, the Income-tax Officer may proceed to recover the amount due by such process.

(*4*) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (*3*).

(*5*) If any assessee is in receipt of any income chargeable under the head "Salaries," the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sums so deducted to the credit of the Government of India, or as the Board of Inland Revenue directs.

(*6*) The Local Government may direct, with respect to any specified area, that income-tax shall be recovered therein, with, and as an

addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(7) Save in accordance with the provisions of sub-section (1) of section 42, no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of the year in which any demand is made under this Act.

Recovery of penalties.

47. Any sum imposed by way of penalty under the provisions of sub-section (2) of section 25, section 28 or sub-section (1) of section 46, shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

CHAPTER VII.

Refunds.

Refunds.

48. (1) If a shareholder in a company who has received any dividend therefrom satisfies the Income-tax Officer that the rate of income-tax applicable to the profits or gains of the company at the time of the declaration of such dividend is greater than the rate applicable to his total income of the year in which such dividend was declared, he shall, on production of the certificate received by him under the provisions of section 20, be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates.

(2) If a member of a registered firm satisfies the Income-tax Officer that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been levied on the profits or gains of the firm of that year, he shall be entitled to a refund on his share of those profits or gains calculated at the difference between those rates.

(3) If the owner of a security from the interest on which, or any person from whose salary, income-tax has been deducted in accordance with the provisions of section 18, satisfies the Income-tax Officer that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been charged in making such deduction in that year, he shall be entitled to a refund on the amount of interest or salary from which such deduction has been made calculated at the difference between those rates.

Relief in respect of United Kingdom income-tax.

49. (1) If any person who has paid Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid United Kingdom income-tax for that year in respect of the same part of his income, and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in

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respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax and the rate at which he was entitled to, and obtained, relief under that section:

Provided that the rate at which the refund is to be given shall not exceed one-half of the Indian rate of tax.

(*2*) In sub-section (*1*)—

(*a*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act;

(*b*) the expression "Indian rate of tax" means the amount of the Indian income-tax divided by the income on which it was charged;

(*c*) the expression "United Kingdom income-tax" means income-tax and super-tax chargeable in accordance with the provisions of the Income-tax Acts.

Limitation of claims for refund.

50. No claim to any refund of income-tax under this Chapter shall be allowed, unless it is made within one year from the last day of the year in which the tax was recovered.

CHAPTER VIII.

Offences and Penalties.

Failure to make payments or deliver returns or statements or allow inspection.

51. If a person fails without reasonable cause or excuse—

(*a*) to deduct and pay any tax as required by section 18 or under sub-section (*5*) of section 46;

(*b*) to furnish a certificate required by sub-section (*9*) of section 18 or by section 20 to be furnished;

(*c*) to furnish in due time any of the returns mentioned in section 21, section 22, or section 38;

(*d*) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (*4*) of section 22, such accounts and documents as are referred to in the notice;

(*e*) to grant inspection or allow copies to be taken in accordance with the provisions of section 39,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

False statement in declaration.

52. If a person makes a statement in a verification mentioned in section 22, or sub-section (*3*) of section 30, or sub-section (*2*) of section

32 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the [1]Indian Penal Code.

XLV of 1860.

Prosecution to be at instance of Assistant Commissioner.

53. (*1*) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the Assistant Commissioner.

(*2*) The Assistant Commissioner may stay any such proceeding or compound any such offence.

Disclosure of information by a public servant.

54. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the [2]Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

I of 1872.

(*2*) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine:

Provided that nothing in this section shall apply to the disclosure—

(*a*) of any such particulars for the purposes of a prosecution under section 193 of the Indian Penal Code[1] in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or

XLV of 1860.

(*b*) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or

(*c*) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

(*d*) of such facts, to an authorised officer of the United Kingdom, as may be necessary to enable relief to be given under section 27 of the Finance Act, 1920, or a refund to be given under section 49 of this Act:

10 & 11 Geo V, c. 18.

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[1] General Acts, Vol. I.
[2] General Acts, Vol. II.

Provided, further, that no prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

CHAPTER IX.

SUPER-TAX[1].

Charge of super-tax.

55. In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any individual, unregistered firm, Hindu undivided family or company, an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by Act of the Indian Legislature:

Provided that, where the profits and gains of an unregistered firm have been assessed to super-tax, super-tax shall not be payable by an individual having a share in the firm in respect of the amount of such profits and gains which is proportionate to his share.

Total income for purposes of super-tax.

56. Subject to the provisions of this Chapter, the total income of any individual, unregistered firm, Hindu undivided family or company shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

Non-resident partners and shareholders.

57. (*1*) In the case of any assessee residing out of British India who is a member of a registered firm, and whose share of the profits from such firm is liable to super-tax, the remaining members of such firm who are resident in British India shall be jointly and severally liable to pay the super-tax due from the non-resident member in respect of such share.

(*2*) Where any assessee who is liable to pay super-tax on the amount of the dividends receivable by him from any company is, to the knowledge of the principal officer of the company, residing out of British India, the principal officer shall be liable to pay the super-tax due by such non-resident person in respect of the dividends received by him from the company, and shall have power to deduct the amount of such super-tax from the amount payable by the company to such assessee.

(*3*) Where any person pays any tax under the provisions of this section on account of an assessee who is residing out of British India, credit shall be given therefor in determining the amount of the tax

[1] For the rates of super-tax for 1923-24, *see* s. 6 (*2*) and Pt. II, Schedule III of the Indian Finance Act, 1923, *infra*.

to be payable by any agent of such non-resident assessee under the provisions of sections 42 and 43.

Application of Act to super-tax.

58. (*1*) All the provisions of this Act, except section 3, the proviso to sub-section (*1*) of section 7, the provisos to section 8, sub-section (*2*) of section 14, and sections 15, 17, 18, 19, 20, 21 and 48 shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax.

(*2*) Save as provided in section 57, super-tax shall be payable by the assessee direct.

CHAPTER X.

MISCELLANEOUS.

Power to make rules.

59. (*1*) The Board of Inland Revenue may, subject to the control of the Governor General in Council, make rules for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of British India or for such part thereof as may be specified.

(*2*) Without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

(*i*) incomes derived in part from agriculture and in part from business;

(*ii*) insurance companies;

(*iii*) persons residing out of British India;

(*b*) prescribe the procedure to be followed on applications for refunds;

(*c*) provide for such arrangements with His Majesty's Government as may be necessary to enable the appropriate relief to be granted under section 27 of the Finance Act, 1920, or under section 49 of this Act;

10 & 11 Geo. V, c. 18.

(*d*) prescribe the year which, for the purpose of relief under section 49, is to be taken as corresponding to the year of assessment for the purposes of section 27 of the Finance Act, 1920; and

10 & 11 Geo. V, c. 18.

(*e*) provide for any matter which by this Act is to be prescribed.

(*3*) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(*4*) Rules made under this section shall be published in the Gazette of India, and shall thereupon have effect as if enacted in this Act.

Power to make exemptions, etc.

60. The Governor General in Council may, by notification in the Gazette of India, make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

Appearance by authorised representative.

61. Any assessee, who is entitled or required to attend before any income-tax authority in connection with any proceedings under this Act, may attend either in person or by any person authorised by him in writing in this behalf.

Receipts to be given.

62. A receipt shall be given for any money paid or recovered under this Act.

Service of notices.

63. (*1*) A notice or requisition under this Act may be served on the person therein-named either by post or, as if it were a summons issued by a Court, under the [1]Code of Civil Procedure, 1908. V of 1908.

(*2*) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager, or any adult male member of the family.

Place of assessment.

64. (*1*) Where an assessee carries on business at any place, he shall be assessed by the Income-tax Officer of the area in which that place is situate or, where the business is carried on in more places than one, by the Income-tax Officer of the area in which his principal place of business is situate.

(*2*) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides.

(*3*) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more provinces than one, by the Commissioners concerned, or, if they are not in agreement, by the Board of Inland Revenue:

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views.

(*4*) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed.

Indemnity.

65. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

[1] General Acts, Vol. VI.

66. (*1*) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VIII, a question of law arises, the Commissioner may, either on his own motion or on reference from any Income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court. Statement of case by Commissioner to High Court.

(*2*) Within one month of the passing of an order under section 31 or section 32, the assessee in respect of whom the order was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the High Court any question of law arising out of such order and the Commissioner shall, within one month of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the High Court:

Provided that, if, in exercise of his power of review under section 33, the Commissioner decides the question, the assessee may withdraw his application, and if he does so, the fee paid shall be refunded.

(*3*) If, on any application being made under sub-section (*2*), the Commissioner refuses to state the case on the ground that no question of law arises, the assessee may apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Commissioner's decision, may require the Commissioner to state the case and to refer it, and, on receipt of any such requisition, the Commissioner shall state and refer the case accordingly.

(*4*) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner by whom it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(*5*) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Commissioner shall dispose of the case accordingly, or, if the case arose on a reference from any Income-tax authority subordinate to him, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(*6*) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

(*7*) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case:

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow.

Bar of suits in Civil Court.

67. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any Government officer for anything in good faith done or intended to be done under this Act.

Repeals.

68. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof:

Provided that such repeal shall not affect the liability of any person to pay any sum due from him or any existing right of refund under any of the said enactments:

Provided, further, that the provisions of section 19 of the Indian Income-tax Act, 1918, shall apply, so far as may be, [1][to income-tax leviable under that Act in respect of the year beginning on the first day of April, 1921, and to super-tax chargeable under the Super-tax Act, 1920, in that year], and where an adjustment shall be made under the provisions of [2][that section,] the provisions of this Act regarding the procedure for the assessment and recovery of income-tax shall apply as if such adjustment were an assessment made under this Act. VII of 1918.

THE SCHEDULE.

(See section 68.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1918	VII	The Indian Income-tax Act, 1918.	The whole.
1919	IV	The Indian Income-tax (Amendment) Act, 1919.	The whole.
„	XVIII	The Repealing and Amending Act, 1919.	So much of the First Schedule as relates to the Indian Income-tax Act, 1918.
1920	XVII	The Indian Income-tax (Amendment) Act, 1920.	The whole.
„	XIX	The Super-tax Act, 1920.	The whole.
„	XXXI	The Repealing and Amending Act, 1920.	So much of the First Schedule as relates to the Super-tax Act, 1920.
„	XLIV	The Indian Income-tax (Amendment No. 2) Act, 1920.	The whole.

[1] These words and figures were substituted for the words and figures "to all assessments made under that Act in the year ending on the 31st day of March, 1922," by s. 3 of the Indian Income-tax (Amendment) Act, 1923 (XV of 1923), *infra*.

[2] These words were substituted for the words and figures "section 19 of the said Act" by *ibid.*

ACT No. XII OF 1922.[1]

[*27th March, 1922.*]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, further to amend the Indian Tariff Act, 1894, and the Indian Post Office Act, 1898, to amend the Indian Paper Currency (Amendment) Act, 1920, to impose an excise duty on kerosene, to fix rates of income-tax and to abolish the freight tax.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, further to amend the [2]Indian Tariff Act, 1894, and the [3]Indian Post Office Act, 1898, to amend the [4]Indian Paper Currency (Amendment) Act, 1920, to impose an excise duty on kerosene, to fix rates of income-tax and to abolish the freight tax; It is hereby enacted as follows:—

VIII of 1894. VI of 1898. XLV of 1920.

Short title, extent and duration.

1. (*1*) This Act may be called the Indian Finance Act, 1922.

(*2*) It extends to the whole of British India, including the Sonthal Parganas and, except as regards section 5, British Baluchistan.

(*3*) Sections 2, 4 and 7 shall remain in force only up to the 31st day of March, 1923.

2. [*Fixation of salt duty.*] *Repealed by s. 2 of the Indian Finance Act, 1923.*

Amendment of Act VIII of 1894.

3. (*1*) With effect from the first day of March, 1922, for the Second Schedule to the [2]Indian Tariff Act, 1894, the Schedule contained in the First Schedule to this Act shall be substituted.

VIII of 1894.

(*2*) With effect from the same date, section 2 of the [5]Indian Finance Act, 1921, and the First Schedule to that Act shall be repealed.

VI of 1921.

4. [*Amendment of Act VI of 1898.*] *Spent and virtually repealed.* (*See s. 4 of the Indian Finance Act, 1923.*)

Imposition of excise duty on kerosene.

5. With effect from the first day of March, 1922, the provisions of the [6]Motor Spirit (Duties) Act, 1917, which provide for the levy and collection of an excise duty on motor spirit, that is to say, all the provisions of that Act except section 6 thereof, shall apply also for the purpose of the levy and collection of an excise duty on kerosene as if references

II of 1917.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 198.
[2] General Acts, Vol. IV.
[3] General Acts, Vol. V.
[4] This Act has been repealed by s. 30 and Schedule of the Indian Paper Currency Act, 1923 (X of 1923), *infra*.
[5] This Act was repealed by the Repealing and Amending Act, 1923 (XI of 1923), *infra*.
[6] General Acts, Vol. VIII.

in the said Act to motor spirit (other than the reference in the second clause of section 2 thereof) were references to kerosene:

Provided that the duty on kerosene shall be levied and collected at the rate of one anna on each imperial gallon.

Explanation.—For the purposes of this section, "kerosene" means any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons but excluding motor spirit) which—

(*a*) is made from petroleum as defined in section 2 of the [1]Indian Petroleum Act, 1899, and VIII of 1899.

(*b*) is intended to be, or is ordinarily, used in liquid form for purposes of illumination.

6. [*Amendment of Act XLV of 1920.*] *Repealed by s. 30 and Schedule of Act X of 1923.*

7. [*Income-tax and super-tax.*] *Spent and virtually repealed.* (*See s. 6 of the Indian Finance Act, 1923.*)

Repeal of Act XIII of 1917.

8. With effect from the first day of April, 1922, the Freight (Railway and Inland Steam-vessel) Tax Act, 1917, shall be repealed. XIII of 1917.

SCHEDULE I.

Schedule to be substituted in the Indian Tariff Act, 1894.

[*See section 3 (1).*]

"SCHEDULE II—IMPORT TARIFF.

PART I.

Articles which are free of duty.

No.	Names of Articles.
	I.—Food, Drink and Tobacco—
1	HOPS.
2	SALT imported into British India and issued, in accordance with rules made with the previous sanction of the Governor General in Council, for use in any process of manufacture; also salt imported into the port of Calcutta and issued with the sanction of the Government of Bengal to manufacturers of glazed stone-ware; also salt imported into any port in the provinces of Bengal and Bihar and Orissa and issued, in accordance with rules made with the previous sanction of the Governor General in Council, for use in curing fish in those provinces. (For the general duty on salt, *see* No. 35.)

[1] General Acts, Vol. V.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART I—*contd.*

Articles which are free of duty.

No.	Names of Articles.
	II.—Raw materials and produce and articles mainly unmanufactured—
	HIDES AND SKINS, RAW.
3	HIDES AND SKINS, raw or salted.
	METALLIC ORES.
4	METALLIC ORES, all sorts.
	PRECIOUS STONES AND PEARLS.
5	PRECIOUS STONES, unset and imported uncut, and PEARLS, unset.
	SEEDS.
6	OIL-SEEDS imported into British India by sea from the territories of any Prince or Chief in India.
	TEXTILE MATERIALS.
7	COTTON, raw.
8	WOOL, raw, and WOOL-TOPS.
	MISCELLANEOUS.
9	MANURES, all sorts, including animal bones and the following chemical manures :— Basic slag, nitrate of ammonia, nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts, nitrate of lime, calcium cyanamide, mineral phosphates and mineral superphosphates.
10	PULP OF WOOD, RAGS and other paper-making materials.
	III.—Articles wholly or mainly manufactured—
	APPAREL.
11	UNIFORMS AND ACCOUTREMENTS appertaining thereto, imported by a public servant for his personal use.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART I—*contd.*

Articles which are free of duty.

No.	Names of Articles.
	ARMS, AMMUNITION AND MILITARY STORES.
12	The following ARMS, AMMUNITION AND MILITARY STORES :— (*a*) Articles falling under the 5th, 6th, 8th, 9th or 10th item of No. 42, when they appertain to a firearm falling under the 1st or 3rd item and are fitted into the same case with such firearm. (*b*) Arms forming part of the regular equipment of a commissioned or gazetted officer in His Majesty's Service entitled to wear diplomatic, military, naval, Royal Air Force or police uniform. (*c*) A revolver and an automatic pistol and ammunition for such revolver and pistol up to a maximum of 100 rounds per revolver or pistol, (*i*) when accompanying a commissioned officer of His Majesty's regular forces, or of the Indian Auxiliary Force or the Indian Territorial Force or a gazetted police officer, or (*ii*) certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, or, in the case of a police officer, by an Inspector General or Commissioner of Police, to be imported by the officer for the purpose of his equipment. (*d*) Swords for presentation as army or volunteer prizes. (*e*) Arms, ammunition, and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a State in India which may be maintained and organized for Imperial Service. (*f*) Morris tubes and patent ammunition imported by officers commanding British and Indian regiments or volunteer corps for the instruction of their men.
	CHEMICALS, DRUGS AND MEDICINES.
13	ANTI-PLAGUE SERUM.
14	QUININE and other alkaloids of Cinchona.
	HARDWARE, IMPLEMENTS AND INSTRUMENTS.
15	The following AGRICULTURAL IMPLEMENTS, namely, winnowers, threshers, mowing and reaping machines, binding machines, elevators, seed-crushers, chaff-cutters, root-cutters, ensilage-cutters, horse and bullock gears, ploughs, cultivators, scarifiers, harrows, clod-crushers, seed-drills, hay-tedders, and rakes ; also agricultural tractors ; also component parts of these implements or tractors, provided that they can be readily fitted into their proper places in the implements or tractors for which they are imported, and that they cannot ordinarily be used for purposes unconnected with agriculture.
16	The following DAIRY APPLIANCES, namely, cream separators, milk sterilizing or pasteurizing plant, milk aërating and cooling apparatus, churns, butter dryers, and butter workers ; also component parts of these appliances, provided that they can be readily fitted into their proper places in the appliances for which they are imported, and that they cannot ordinarily be used for other than dairy purposes.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART I—*concld.*

Articles which are free of duty.

No.	Names of Articles.
	HARDWARE, IMPLEMENTS AND INSTRUMENTS—*contd.*
17	INSTRUMENTS, APPARATUS AND APPLIANCES, imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling.
18	WATER-LIFTS, SUGAR-MILLS, OIL-PRESSES, and parts thereof, when constructed so that they can be worked by manual or animal power.
	METALS.
19	CURRENT NICKEL, BRONZE, AND COPPER COIN of the Government of India.
20	GOLD AND SILVER BULLION and coin.
	PAPER.
21	TRADE CATALOGUES AND ADVERTISING CIRCULARS imported by packet, book, or parcel post.
	YARNS AND TEXTILE FABRICS.
22	SECOND-HAND OR USED GUNNY BAGS made of jute.
	MISCELLANEOUS.
23	ART, the following works of:—(1) statuary and pictures intended to be put up for the public benefit in a public place, and (2) memorials of a public character intended to be put up in a public place, including the materials used, or to be used in their construction, whether worked or not.
24	BOOKS printed, including covers for printed books, maps, charts, and plans, proofs, music and manuscripts.
	IV.—Miscellaneous and unclassified—
25	ANIMALS, living, all sorts.
26	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, and medals and antique coins.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART II.

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
			R A.
	I.—Food, Drink and Tobacco—		
	FISH.		
27	FISH, SALTED, wet or dry	Indian maund of 82⅔ lbs. avoirdupois weight.	Such rate or rates of duty not exceeding one rupee as the Governor General in Council may, by notification in the Gazette of India, from time to time prescribe.
	LIQUORS.		
28	ALE, Beer, Porter, Cider and other fermented liquors.	Imperial gallon or 6 quart bottles.	Eight annas.
29	SPIRIT, which has been rendered effectulaly and permanently unfit for human consumption.	*Ad valorem* . .	7½ per cent.
30	PERFUMED SPIRITS . .	Imperial gallon or 6 quart bottles.	36 0
31	LIQUEURS, Cordials, Mixtures and other preparations containing spirit—		
	(*a*) Entered in such a manner as to indicate that the strength is not to be tested.	Ditto . .	30 0
	(*b*) If tested . . .	Imperial gallon or 6 quart bottles of the strength of London proof.	21 14 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
32	All other sorts of SPIRIT . .	Ditto . .	Ditto.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART II—*contd.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
			R A.
	LIQUORS—*contd.*		
33	WINES—		
	Champagne and all other sparkling wines not containing more than 42 per cent. of proof spirit.	Imperial gallon or 6 quart bottles.	9 0
	All other sorts of wines not containing more than 42 per cent. of proof spirit:	Ditto . .	4 8
	Provided that all sparkling and still wines containing more than 42 per cent. of proof spirit shall be liable to duty at the rate applicable to "All other sorts of Spirit."		
	SUGAR.		
34	SUGAR, all sorts including molasses and saccharine produce of all sorts, but excluding confectionery (*see* No. 124).	*Ad valorem* . .	25 per cent.
	OTHER FOOD AND DRINK.		
35	SALT, excluding salt exempted under No. 2.	Indian maund of 82⅔ lbs avoirdupois weight.	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.
	TOBACCO.		
36	TOBACCO, unmanufactured .	Pound . . .	1 0
37	CIGARS AND CIGARETTES .	*Ad valorem* . .	75 per cent.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART II—*contd.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
			R A.
38	All other sorts of TOBACCO manufactured.	Pound . . .	2 4
	II.—Raw Materials and produce and articles mainly unmanufactured—		
	COAL, COKE AND PATENT FUEL.		
39	COAL, COKE AND PATENT FUEL	Ton . . .	0 8
	OILS.		
40	KEROSENE AND MOTOR SPIRIT; also any mineral oil other than kerosene and motor spirit which has its flashing point below one hundred degrees of Fahrenheit's thermometer by Abel's close test. NOTE.—Motor spirit is liable to an additional duty of 6 annas per gallon under Act II of 1917, as amended by Act III of 1919.	Imperial gallon .	Two annas and six pies.
41	MINERAL OIL which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is such as is not ordinarily used for any other purpose than for the batching of jute or other fibre, or for lubrication, and mineral oil which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purpose.	*Ad valorem* . .	7½ per cent.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART II—*contd.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
	III.—Articles wholly or mainly manufactured—		
	ARMS, AMMUNITION AND MILITARY STORES.		
42	Subject to the exemptions specified in No. 12—		R
	(1) Firearms other than pistols, including gas and air-guns and rifles.	Each . . .	15
	(2) Barrels for the same, whether single or double.	„ . .	15
	(3) Pistols, including automatic pistols and revolvers.	„ . . .	15
	(4) Barrels for the same, whether single or double.	„ . . .	15
	(5) Main springs and magazine springs for firearms, including gas-guns and rifles.	„ . . .	5 or 30 per cent. *ad valorem*, whichever is higher.
	(6) Gun stocks and breech blocks.	„ . . .	3
	(7) Revolver-cylinders, for each cartridge they will carry.	„ . .	2
	(8) Actions (including skeleton and waster) breech bolts and their heads, cocking pieces, and locks for muzzle loading Arms.	„ . . .	1
	(9) Machines for making, loading, or closing cartridges for rifled arms.	*Ad valorem* . .	30 per cent.
	(10) Machines for capping cartridges for rifled arms.	*Ad valorem* . .	30 per cent.
	CHEMICALS, DRUGS AND MEDICINES.		
			R A.
43	Opium and its alkaloids and their derivatives.	Seer of 80 tolas .	24 0

SCHEDULE II—IMPORT TARIFF—*contd.*

PART II—*concld.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
	YARNS AND TEXTILE FABRICS.		
44	COTTON TWIST AND YARN, AND COTTON SEWING OR DARNING THREAD.	*Ad valorem* . .	5 per cent.
45	COTTON PIECE-GOODS . .	*Ad valorem* . .	11 per cent.
	MISCELLANEOUS.		
46	Matches—		R A.
	(1) In boxes containing on the average not more than 100 matches.	Per gross of boxes	1 8
	(2) In boxes containing on the average more than 100 matches.	For every 25 matches or fraction thereof in each box, per gross of boxes.	0 6

PART III.

Articles which are liable to duty at 2½ per cent. *ad valorem.*

No.	Names of Articles.
	I.—Food, Drink and Tobacco—
	GRAIN, PULSE AND FLOUR.
47	GRAIN AND PULSE, all sorts, including broken grains and pulse, but excluding flour (*see* No. 68).
	PROVISIONS AND OILMAN'S STORES.
48	VINEGAR in casks.
	II.—Raw materials and produce and articles mainly unmanufactured—
	WOOD AND TIMBER.
49	FIREWOOD.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART III—*contd.*

Articles which are liable to duty at 2½ per cent. *ad valorem.*

No.	Names of Articles.
	III.—Articles wholly or mainly manufactured—
	CHEMICALS, DRUGS AND MEDICINES.
50	COPPERAS, green.
	MACHINERY.
51	MACHINERY, namely, prime-movers and component parts thereof, including boilers and component parts thereof; also including locomotive and portable engines, steam-rollers, fire engines, motor tractors designed for purposes other than agriculture, and other machines in which the prime-mover is not separable from the operative parts. MACHINERY (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire or other power not being manual or animal labour, or which, before being brought into use, require to be fixed with reference to other moving parts; and including belting of all materials for driving machinery: Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery, and are, owing to their shape or to other special quality, not adapted for any other purpose. *Note.*—This entry includes machinery and component parts thereof made of substances other than metal.
	METALS OTHER THAN IRON AND STEEL.
52	LEAD sheets, for tea-chests.
	MISCELLANEOUS.
53	AEROPLANES, aeroplane parts, aeroplane engines and aeroplane engine parts.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART III—*concld.*

Articles which are liable to duty at 2½ per cent. *ad valorem.*

No.	Names of Articles.
54	PRINTING AND LITHOGRAPHING MATERIAL, namely, presses, type, ink, aluminium lithographic plates, brass rules, composing sticks, chases, imposing tables, and lithographic stones, stereo-blocks, wood blocks, half tone blocks, electrotype blocks, roller moulds, roller frames and stocks, roller composition, standing screw and hot presses, perforating machines, gold blocking presses, galley presses, proof presses, arming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead and rule cutters, type casting machines, type setting and casting machines, rule bending machines, rule mitreing machines, bronzing machines, leads, wooden and metal quoins, shooting sticks and galleys, stereotyping apparatus, metal furniture, paper folding machines, and paging machines, but excluding paper (*see* No. 99).
55	RACKS for the withering of tea leaf.
56	TEA-CHESTS of metal or wood, whether imported entire or in sections provided that the Collector of Customs is satisfied that they are imported for the purpose of the packing of tea for transport in bulk.
57	FODDER, BRAN AND POLLARDS.

PART IV.

Articles which are liable to duty at 10 per cent. *ad valorem.*

No.	Names of Articles.
	II.—Raw materials and produce and articles mainly unmanufactured—
	METALLIC ORES AND SCRAP IRON OR STEEL FOR RE-MANUFACTURE.
58	IRON OR STEEL, old.
	III.—Articles wholly or mainly manufactured—
	HARDWARE, IMPLEMENTS AND INSTRUMENTS.
59	TELEGRAPHIC INSTRUMENTS and APPARATUS, and parts thereof imported by, or under the orders of, a Railway Company.
	METALS—IRON AND STEEL.
60	IRON, angle.
	„ bar, rod and channel, including channel for carriages.
	„ pig.
	„ rice bowls.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART IV—*contd.*

Articles which are liable to duty at 10 per cent. *ad valorem.*

No.	Names of Articles.
61	IRON OR STEEL, anchors and cables.
	,, ,, beams, joists, pillars, girders screw piles, bridge work and other descriptions of iron or steel imported exclusively for building purposes, including also ridging, guttering and continuous roofing.
	,, ,, bolts and nuts, including hook-bolts and nuts for roofing.
	,, ,, hoops and strips.
	,, ,, nails, rivets and washers, all sorts.
	,, ,, pipes and tubes and fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like.
	,, ,, rails, chairs, sleepers, bearing and fishplates, spikes (commonly known as dog spikes), switches and crossings, other than those described in No. 63, also lever-boxes, clips and tie-bars.
	,, ,, sheets and plates, all sorts, excluding discs and circles which are dutiable under No. 97.
	,, ,, wire, including fencing-wire, piano-wire and wire-rope, but excluding wire-netting which is dutiable under No. 97.
62	STEEL, angle.
	,, bar, rod and channel, including channel for carriages.
	,, cast, including spring blistered and tub steel.
	,, ingots, blooms, billets and slabs.
	RAILWAY PLANT AND ROLLING-STOCK.
63	RAILWAY MATERIALS for permanent-way and rolling-stock, namely, cylinders, girders, and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts, chairs, spikes, crossings, sleeper fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges, engines, tenders, carriages, wagons, traversers, trollies, trucks and component parts thereof; also the following articles when imported by, or under the orders of, a railway company, namely, cranes, water cranes, water tanks, and standards, wire and other materials for fencing: Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a State in India and also such tramways, as the Governor General in Council may, by notification in the Gazette of India, specifically include therein:

SCHEDULE II—IMPORT TARIFF—*contd.*

PART IV—*concld.*

Articles which are liable to duty at 10 per cent. *ad valorem.*

No.	Names of Articles.
	Provided also that only such articles shall be admitted as component parts of railway materials as are indispensable for the working of railways, and are, owing to their shape or to other special quality, not adapted for any other purpose.
64	SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections.

PART V.

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
	I.—Food, Drink and Tobacco—
	FISH.
65	FISH, excluding salted fish (*see* No. 27).
66	FISHMAWS, including singally and sozille, and sharkfins.
	FRUITS AND VEGETABLES.
67	FRUITS AND VEGETABLES, all sorts, fresh, dried, salted or preserved.
	GRAIN, PULSE AND FLOUR.
68	FLOUR.
	PROVISIONS AND OILMAN'S STORES.
69	PROVISIONS AND OILMAN'S STORES AND GROCERIES, all sorts, excluding vinegar in casks (*see* No. 48).

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
	SPICES.
70	SPICES, all sorts.
	TEA.
71	TEA.
	OTHER FOOD AND DRINK.
72	COFFEE.
73	All other sorts of Food and Drink not otherwise specified.
	II.—Raw materials and produce and articles mainly unmanufactured—
	GUMS, RESINS AND LAC.
74	GUMS, RESINS AND LAC, all sorts
	OILS.
75	All sorts of animal, essential, mineral, and vegetable non-essential oils not otherwise specified (*see* Nos. 40 and 41).
	SEEDS.
76	SEEDS, all sorts, excluding oil-seeds imported into British India by sea from the territories of any Prince or Chief in India (*see* No. 6).
	TALLOW, STEARINE AND WAX.
77	TALLOW AND STEARINE, including grease and animal fat, and wax of all sorts not otherwise specified.
	TEXTILE MATERIALS.
78	TEXTILE MATERIALS, the following :— Silk waste, and raw silk including cocoons, raw flax, hemp, jute and all other unmanufactured textile materials not otherwise specified.
	WOOD AND TIMBER.
79	WOOD AND TIMBER, all sorts, not otherwise specified, including all sorts of ornamental wood.
	MISCELLANEOUS.
80	CANES AND RATTANS.
81	COWRIES and SHELLS.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
82	IVORY, unmanufactured.
83	PRECIOUS STONES, unset and imported cut (*see* No. 5).
84	All other raw materials and produce and articles mainly unmanufactured, not otherwise specified.
	III.—Articles wholly or mainly manufactured—
	APPAREL.
85	APPAREL, including drapery, boots and shoes, and military and other uniforms and accoutrements, but excluding uniforms and accoutrements exempted from duty under No. 11 and gold and silver thread (*see* Nos. 132 and 133), and articles made of silk (*see* No. 134).
	ARMS, AMMUNITION AND MILITARY STORES.
86	EXPLOSIVES, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting roburite, blasting tonite, and all other sorts, including detonators and blasting fuze.
	CARRIAGES AND CARTS.
87	CARRIAGES AND CARTS, including tramcars, motor-omnibuses, motor-lorries, motor-vans, jinrikshas, bath-chairs, perambulators, trucks, wheel barrows, and all other sorts of conveyances not otherwise specified, and such component parts and accessories thereof, as are not also adapted for use as parts or accessories of motor cars, motor cycles, motor scooters, bicycles, or tricycles (*see* No. 127).
	CHEMICALS, DRUGS AND MEDICINES.
88	CHEMICALS, DRUGS AND MEDICINES, all sorts, not otherwise specified.
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS
89	CUTLERY, excluding plated cutlery (*see* No. 129).
90	HARDWARE, IRONMONGERY AND TOOLS, all sorts, not otherwise specified.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
91	All other sorts of IMPLEMENTS, INSTRUMENTS, APPARATUS AND APPLIANCES, and parts thereof, not otherwise specified.
	DYES AND COLOURS.
92	DYEING AND TANNING SUBSTANCES, all sorts, and paints and colours and painters' materials, all sorts.
	FURNITURE, CABINETWARE AND MANUFACTURES OF WOOD.
93	FURNITURE, CABINETWARE and all other manufactures of wood not otherwise specified.
	GLASSWARE AND EARTHENWARE.
94	GLASS AND GLASSWARE, lacquered ware, earthenware, china and porcelain ; all sorts except glass bangles and beads and false pearls (*see* No. 131).
	HIDES AND SKINS AND LEATHER.
95	HIDES AND SKINS not otherwise specified, LEATHER AND LEATHER MANUFACTURES, all sorts, not otherwise specified.
	MACHINERY.
96	MACHINERY AND COMPONENT PARTS thereof, meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified (*see* Nos. 15, 16 and 18).
	METALS—IRON AND STEEL.
97	All sorts of IRON AND STEEL and manufactures thereof, not otherwise specified.
	METALS OTHER THAN IRON AND STEEL.
98	All sorts of METALS OTHER THAN IRON AND STEEL, and manufactures thereof, not otherwise specified.
	PAPER, PASTEBOARD AND STATIONERY.
99	PAPER AND ARTICLES MADE OF PAPER AND PAPIER MACHÉ, PASTEBOARD, MILLBOARD, AND CARDBOARD, all sorts, and STATIONERY, including ruled or printed forms and account and manuscript books, drawing and copy books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter, and other cards, including cards in booklet form, including also wastepaper and old newspapers for packing, but excluding trade catalogues and advertising circulars imported by packet, book, or parcel post (*see* No. 21).

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
	YARNS AND TEXTILE FABRICS.
100	YARNS AND TEXTILE FABRICS, that is to say :—
	Cotton thread other than sewing or darning thread, and all other manufactured cotton goods not otherwise specified.
	Flax, twist and yarn, and manufactures of flax.
	Haberdashery and millinery, excluding articles made of silk (*see* No. 134).
	Hemp manufactures.
	Hosiery, excluding articles made of silk (*see* No. 134).
	Jute, twist and yarn, and jute manufactures, excluding second hand or used gunny bags (*see* No. 22).
	Silk yarn, noils and warps and silk thread.
	Woollen yarn, knitting wool, and other manufactures of wool, including felt.
	All other sorts of yarns and textile fabrics, not otherwise specified.
	MISCELLANEOUS.
101	ART, works of, excluding those specified in No. 23.
102	BRUSHES AND BROOMS.
103	BUILDING AND ENGINEERING MATERIALS, including asphalt, bricks, cement, chalk and lime, clay, pipes of earthenware, tiles and all other sorts of building and engineering materials not otherwise specified.
104	CANDLES.
105	CINEMATOGRAPH FILMS.
106	CORDAGE AND ROPE AND TWINE OF VEGETABLE FIBRE.
107	FURNITURE TACKLE AND APPAREL, not otherwise described, for steam, sailing, rowing and other vessels.
108	MATS AND MATTING.
109	OILCAKES.
110	OILCLOTH AND FLOOR CLOTH.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*concld.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
111	PACKING—ENGINE AND BOILER—all sorts, excluding packing forming a component part of any article included in Nos. 51 and 63.
112	PERFUMERY, not otherwise specified.
113	PITCH, TAR AND DAMMER.
114	POLISHES AND COMPOSITIONS.
115	RUBBER tyres and other manufactures of rubber, not otherwise specified (*see* No. 139).
116	SOAP.
117	STARCH AND FARINA.
118	STONE AND MARBLE, and articles made of stone and marble.
119	TOILET REQUISITES, not otherwise specified.
120	All other articles wholly or mainly manufactured, not otherwise specified.
	IV.—Miscellaneous and unclassified—
121	CORAL.
122	UMBRELLAS, INCLUDING PARASOLS AND SUNSHADES, AND FITTINGS THEREFOR.
123	All other articles not otherwise specified, including articles imported by post.

PART VI.

Articles which are liable to duty at 30 per cent. *ad valorem.*

No.	Names of Articles.
	I.—Food, Drink and Tobacco—
124	CONFECTIONERY.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART VI—*contd.*

Articles which are liable to duty at 30 per cent. *ad valorem.*

No.	Names of Articles.
	II.—Articles wholly or mainly manufactured.
	ARMS, AMMUNITION AND MILITARY STORES.
125	GUNPOWDER FOR CANNONS, rifles, guns, pistols and sporting purposes.
126	Subject to the exemptions specified in No. 12 all articles other than those specified in entry No. 42 which are arms or parts of arms within the meaning of the Indian Arms Act, 1878 (excluding springs used for air-guns which are dutiable as hardware under No. 90), all tools used for cleaning or putting together the same, all machines for making, loading, closing or capping cartridges for arms other than rifled arms and all other sorts of ammunition and military stores, and any articles which the Governor General in Council may, by notification in the Gazette of India, declare to be ammunition or military stores for the purposes of this Act.
	CARRIAGES AND CARTS.
127	MOTOR CARS, motor cycles, motor scooters, bicycles and tricycles and articles adapted for use as parts and accessories thereof: provided that such articles as are ordinarily also used for purposes other than as parts and accessories of motor vehicles included in this item or in No. 87 or of bicycles or tricycles shall be dutiable at the rate of duty specified for such articles.
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.
128	CLOCKS AND WATCHES AND PARTS THEREOF.
129	ARTICLES PLATED WITH GOLD AND SILVER.
130	MUSICAL INSTRUMENTS.
	GLASSWARE AND EARTHENWARE.
131	GLASS BANGLES and BEADS and false pearls.
	METALS.
132	GOLD PLATE, gold thread and wire, and gold manufactures, all sorts.
133	SILVER PLATE, silver thread and wire, and silver manufactures, all sorts.

SCHEDULE II—IMPORT TARIFF—*concld.*

PART VI—*concld.*

Articles which are liable to duty at 30 per cent. *ad valorem.*

No.	Names of Articles.
	YARNS AND TEXTILE FABRICS.
134	SILK PIECE-GOODS, and other manufactures of silk.
	MISCELLANEOUS.
135	FIRE-WORKS.
136	IVORY, manufactured.
137	JEWELLERY AND JEWELS
138	PRINTS, engravings and pictures, including photographs and picture postcards.
139	PNEUMATIC RUBBER TYRES AND TUBES for motor cars, motor lorries, motor cycles, motor scooters, bicycles and tricycles.
140	SMOKERS' REQUISITES, excluding tobacco (Nos. 36 to 38) and matches (No. 46).
141	TOYS, games, playing cards and requisites for games and sports, including bird-shot."

SCHEDULE II.—*Spent and virtually repealed.* (*See* s. 4 of the Indian Finance Act, 1923.)

SCHEDULE III.—*Spent and virtually repealed.* (*See* s. 6 of the Indian Finance Act, 1923.)

ACT No. XIII OF 1922.[1]

[*29th March, 1922.*]

An Act to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto.

WHEREAS it is expedient to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Ranchi Mental Hospital Act, 1922. Short title and commencement.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 219.

(2) It shall come into force on such date[1] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " the Board " means the Board of Trustees for the European Hospital for mental diseases at Ranchi constituted under this Act;

(*b*) " the Chairman " means the Chairman of the Board;

(*c*) " the Hospital " means the European Hospital for mental diseases established at Ranchi in the province of Bihar and Orissa;

(*d*) " land " means land as defined in section 3 of the [2]Land Acquisition Act, 1894; I of 1894.

(*e*) " the Local Government " means the Local Government of Bihar and Orissa;

(*f*) " the Superintendent " means the Superintendent of the Hospital appointed by the Local Government; and

(*g*) " Trustee " means a member of the Board.

Incorporation of Trustees.

3. Subject to the provisions of this Act, the entire management and control of the Hospital shall, on and from the date on which this Act comes into force, be vested in a Board to be called " the Trustees for the European Hospital for mental diseases at Ranchi," and the Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

Constitution of the Board.

4. (*1*) The Board shall consist of fourteen Trustees, namely:—

(*a*) a Chairman appointed by the Local Government;

(*b*) four Trustees appointed by the Local Government of Bengal;

(*c*) two Trustees appointed by each of the Local Governments of the United Provinces of Agra and Oudh, the Punjab and Bihar and Orissa;

(*d*) one Trustee appointed by the Local Government of the Central Provinces;

(*e*) one Trustee elected by the Council of the Company which was at the commencement of this Act registered under the [3]Indian Companies Act, 1913, by the name of the European Association; and VII of 1913.

(*f*) one Trustee elected by the Anglo-Indian and Domiciled European Association (Bengal), Limited.

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[1] From 1st July 1922, *see* Gazette of India, 1922, Pt. I, p. 748.
[2] General Acts, Vol. IV.
[3] General Acts, Vol. VII.

(2) The Superintendent shall be *ex-officio* Secretary of the Board.

Initial loan to the Board.

5. (1) On the date on which this Act comes into force, the Governor General in Council shall pay to the Board a sum of three and a half lakhs of rupees by way of loan, which sum shall be repaid by the Board, together with any interest or costs due in respect thereof, in accordance with such terms and conditions as the Governor General in Council may fix.

(2) Any amount which is repaid or is repayable in any year under sub-section (1) shall be taken into account in the calculation of the amount attributable to the cost of maintenance, as defined in section 3 of the [1]Indian Lunacy Act, 1912, of the lunatics detained in the Hospital in that year.

IV of 1912.

Loans to the Board for specific purposes.

6. (1) The Governor General in Council may, on such terms and conditions as he may fix, make further loans to the Board for the carrying out of any works in connection with the Hospital which have been sanctioned in accordance with the provisions of any rules made under this Act, and the Board shall repay the money borrowed, together with any interest or costs due in respect thereof, according to the terms and conditions of the loan.

(2) Save as provided in section 5 and sub-section (1), the Board shall not borrow money upon or otherwise charge its funds.

Other income.

7. On and from the date on which the provisions of this Act come into force, all monies payable under the [1]Indian Lunacy Act, 1912, on account of the cost of maintenance of any lunatic in the Hospital shall be paid to the Board.

IV of 1912.

Acquisition of land.

8. The Local Government may, at the request of the Board acquire, under the provisions of the [2]Land Acquisition Act, 1894, any land which it is satisfied is required by the Board for the purposes of the Hospital, and, on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Local Government in connection with the proceedings, the land shall vest in the Board.

I of 1894.

Establishment.

9. Subject to the provisions of this Act and of any rules made hereunder, the Board shall maintain such staff of officers and servants as may in its opinion be necessary for the proper management and up-keep of the Hospital, and shall assign to them such pay and allowances as it thinks fit.

Contributions for pensions, etc.

10. Where any person in the service of Government is appointed as an officer or servant of the Board, the Board shall—

(a) if his services are wholly lent or transferred, meet in addition to his pay and allowances any charges prescribed or authorised by any rules for the time being in force under the

[1] General Acts, Vol. VII.
[2] General Acts, Vol. IV.

provisions of section 96B of the Government of India Act regarding contributions towards pensions or gratuities and leave allowances, and

(*b*) if he is employed partly by Government and partly by the Board, meet such proportion of such pay and allowances and charges as may be determined by the Local Government.

Trustees and servants to be public servants.

11. Every Trustee and every officer and servant of the Board shall be deemed to be a public servant within the meaning of section 21 of the [1]Indian Penal Code. XLV of 1860.

Returns.

12. The Local Government may call upon the Board to furnish it with any extract from any proceedings of the Board or from any record under the control of the Board, or with any statistics concerning the administration of the Hospital, and the Board shall thereupon furnish the same without unreasonable delay.

Control and supersession of the Board.

13. (*1*) If the Local Government, after such inquiry as it may deem fit, is satisfied—

(*a*) that any of the duties imposed or powers conferred upon the Board by or under this Act has not been performed or exercised or has been performed or exercised in an imperfect, inefficient or unsuitable manner; or

(*b*) that adequate financial provision has not been made for the performance of any such duty or for the proper maintenance of the Hospital;

it may, by order in writing, direct the Board, within such period as may be specified in the order, to make arrangements to the satisfaction of the Local Government for the proper performance of any such duty or the proper exercise of any such power, or to make financial provision to the satisfaction of the Local Government for the performance of any such duty or for the maintenance of the Hospital, as the case may be; and the Board shall thereupon comply with such direction.

(*2*) On the failure of the Board to comply with any such direction, the Local Government or any person appointed by the Local Government in this behalf may perform such duty or exercise such power or make such provision, as the case may be, and the Local Government may attach the funds of the Board or any portion thereof and may apply the same to meet any charges incurred in the performance of such duty or the exercise of such power, or in the making of such provision, as the case may be.

(*3*) On the repeated failure of the Board to comply with such directions, or if the Board otherwise exceeds or abuses its powers, the Local

[1] General Acts, Vol. I.

Government may, with the previous sanction of the Governor General in Council, by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare the Board to be incompetent or to have exceeded or abused its powers, as the case may be, and direct that the Board shall be superseded for such period as may be specified in the notification.

(*4*) When the Board is superseded under the provisions of sub-section (*3*)—

(*a*) all Trustees shall, from the date of the publication of the notification under that sub-section, vacate their offices as Trustees;

(*b*) all powers and duties of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the Local Government may appoint in this behalf;

(*c*) all funds and other property vested in the Board shall, during the period of supersession, vest in the Local Government on behalf of His Majesty; and

(*d*) before the expiration of the period of supersession, elections shall be held and appointments made for the purpose of reconstituting the Board.

(*5*) If the Local Government is informed by the Governor General in Council that the Board has made default in the repayment of any sum due on account of a loan under section 5 or section 6, the Local Government shall forthwith exercise such of its powers under sub-sections (*1*) and (*2*) as may be necessary for the purpose of enforcing such repayment.

Dissolution of the Board.

14. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved, and, on the making of such declaration, all funds and other property vested in the Board shall vest in the Local Government on behalf of His Majesty.

Power of the Governor General in Council to make rules.

15. The Governor General in Council may make rules prescribing—

(*a*) the qualifications for being appointed a Trustee;

(*b*) the circumstances in which and the authority by which any Trustee may be removed;

(*c*) the filling of any vacancy in the office of a Trustee, whether temporary or otherwise;

(*d*) the term of office of Trustees; and

(*e*) the allowances, if any, payable to the Trustees from the funds of the Board on account of attendance at meetings of the Board.

Power of the Local Government to make rules.

16. (*1*) The Local Government may, subject to rules made under section 15, make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(*a*) for fixing the minimum number of meetings of the Board during any year;

(*b*) for requiring the maintenance by the Board or the Managing Committee of the Board of a record of all business transacted and the submission of copies of such record to the Local Government or to any other specified authority;

(*c*) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed;

(*d*) for sanctioning works in connection with the Hospital and for prescribing the preparation of estimates of such works before work is commenced and the authority by which such estimates shall be sanctioned;

(*e*) for the procedure to be observed in calling for and considering tenders;

(*f*) for requiring the preparation of schedules of the staff of officers and servants of the Board;

(*g*) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in respect of the appointment, promotion and dismissal of officers and servants of the Board, and in respect of the creation and abolition of appointments of such officers or servants;

(*h*) for regulating the grant of leave to officers and servants of the Board, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted;

(*i*) for regulating the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Board;

(*j*) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Board, and for the deduction of subscriptions to such provident fund

from the pay and allowances of such officers or servants, other than Government servants whose services have been lent or transferred to the Board;

(*k*) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Board and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published;

(*l*) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in regard to the expenditure of the funds of the Board, whether provision has or has not been made in the budget estimates or by re-appropriation for such expenditure, and in regard to the re-appropriation of estimated savings in the budget estimates of expenditure;

(*m*) for prescribing the maintenance of accounts of the receipts and expenditure of the Board and providing for the audit of such accounts;

(*n*) for prescribing the manner in which payments are to be made by or on behalf of the Board, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Board shall be signed; and

(*o*) for determining the custody in which the current account of the Board shall be kept, and the bank or banks at which surplus monies at the credit of the Board may be deposited at interest, and the conditions on which such monies may be otherwise invested.

Powers of the Board to make rules.

17. Subject to any rules made under sections 15 and 16, the Board may, with the previous sanction of the Local Government, make rules[1] to provide for all or any of the following matters, namely:—

(*a*) for the constitution of a Managing Committee and the delegation thereto of any powers exercisable under this Act by the Board;

(*b*) for prescribing the method of appointment, removal and replacement and the term of office of members of the Managing Committee, and for the filling of vacancies therein;

(*c*) for the appointment of the dates, times and places for meetings of the Board and the Managing Committee, and for regulating the procedure to be observed at such meetings;

[1] For rules framed by the Board, *see* Gazette of India, 1923, Pt. I, p. 851.

(*d*) for determining the amount and nature of the security, if any, to be demanded from officers or servants of the Board, and the circumstances in which such security may be demanded;

(*e*) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund, and the conditions on which such payments shall relieve the fund from further liability;

(*f*) for determining the contribution, if any, payable from the funds of the Board to the provident fund;

(*g*) for regulating generally all matters incidental to the provident fund and the investment thereof; and

(*h*) for defining the powers and duties of the Secretary of the Board.

Rules to be made after previous publication.

18. All rules made under this Act shall be made subject to the condition of previous publication, and shall be published in the Gazette of India and in the Bihar and Orissa Gazette, and on such publication shall have effect as if they were enacted in this Act.

Notice of suits against the Board, etc.

19. No suit shall be instituted against the Board or any Trustee or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any such officer or servant, in respect of any act purporting to be done under this Act or any rule made hereunder until the expiration of one month after written notice has been delivered or left at the office of the Board or at the office or place of abode of such officer or servant, stating the cause of action, the name and place of abode of the complainant and the relief which he claims, and unless the plaint contains a statement that such notice has been so delivered or left.

Validation.

20. No act done or proceedings taken under this Act shall be questioned on the ground merely of—

(*a*) the existence of any vacancy in or any defect in the constitution of the Board or the Managing Committee; or

(*b*) any person having ceased to be a Trustee; or

(*c*) any omission, defect or irregularity not affecting the merits of the case.

Classification of Hospital.

21. For all the purposes of the [1]Indian Lunacy Act, 1912, the Hospital shall be deemed to be an asylum established by the Government.

[1] General Acts, Vol. VII.

ACT No. XIV OF 1922.[1]

[*29th March, 1922.*]

An Act to repeal the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, and to make certain provisions in regard to the liability of editors of newspapers, and to facilitate the registration of printers and publishers; and to provide for the seizure and disposal of certain documents.

I of 1910. VII of 1908. XXV of 1867. VIII of 1878. V of 1898. VI of 1898.

WHEREAS it is expedient to repeal the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, and to make further provision in the [2]Press and Registration of Books Act, 1867, for the liability of editors of newspapers in civil and criminal proceedings, and to make certain amendments in that Act in order to facilitate the registration of printers and publishers; and to provide in the [3]Sea Customs Act, 1878, the [4]Code of Criminal Procedure, 1898, and the [4]Indian Post Office Act, 1898, for the seizure and disposal of certain documents; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Press Law Repeal and Amendment Act, 1922.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Repeal of Act VII of 1908 and Act I of 1910.

VII of 1908. I of 1910. **2.** (*1*) The Newspapers (Incitements to Offences) Act, 1908, and the Indian Press Act, 1910, are hereby repealed.

I of 1910. V of 1898. (*2*) Nothing in sub-section (*1*) shall be deemed to invalidate any order made under section 12 of the Indian Press Act, 1910, before the commencement of this Act, forfeiting any newspaper, book or other document; and any newspaper, book or other document forfeited in accordance with such order shall be deemed to be forfeited in accordance with the provisions of section 99A of the [4]Code of Criminal Procedure, 1898, except that no application under section 99B of that Code shall lie in respect of the forfeiture of any such newspaper, book or document, if forfeited more than two months before the commencement of this Act.

Amendment of Act XXV of 1867.

XXV of 1867. **3.** The amendments set forth in the First Schedule shall be made in the [2]Press and Registration of Books Act, 1867.

Amendment of Act VIII of 1878.

VIII of 1878. **4.** The amendments set forth in the Second Schedule shall be made in the [3]Sea Customs Act, 1878.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 138; and for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 199.

[2] General Acts, Vol. I.

[3] General Acts, Vol. II.

[4] General Acts, Vol. V.

Amendment of Act V of 1898.

5. The amendments set forth in the Third Schedule shall be made in the [1]Code of Criminal Procedure, 1898. V of 1898.

Amendment of Act VI of 1898.

6. The amendments set forth in the Fourth Schedule shall be made in the [1]Indian Post Office Act, 1898. VI of 1898.

THE FIRST SCHEDULE.

(*See section 3.*)

THE PRESS AND REGISTRATION OF BOOKS ACT, 1867 (XXV OF 1867).

1. In section 1, after the definition of "British India," the following definition, namely:—

Editor.

"'editor' means the person who controls the selection of the matter that is published in a newspaper,"

and after the definition of "Magistrate" the following definition, namely:—

Newspaper.

"'newspaper' means any printed periodical work containing public news or comments on public news,"

shall be inserted.

2. In section 5—

(*a*) For the words "printed periodical work containing public news or comments on public news," the word "newspaper" shall be substituted;

(*b*) After the words "hereinafter laid down" the following clause shall be inserted, namely:—

"(1) Every copy of every such newspaper shall contain the name of the person who is the editor thereof printed clearly on such copy as the name of the editor of that newspaper;"

(*c*) Clauses (1), (2) and (3) shall be re-numbered (2), (3) and (4);

(*d*) In clause (2) as re-numbered, for the words "before the Magistrate within whose local jurisdiction such work shall be published" the words "in person or by agent authorised in this behalf in accordance with rules made under section 20, before a District, Presidency or Sub-divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published, or such printer or publisher resides," shall be substituted, and for the words "periodical work" the word "newspaper" shall be substituted;

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[1] General Acts, Vol. V.

(*e*) After clause (4) as re-numbered, the following proviso shall be inserted, namely:—

"Provided that no person who has not attained majority in accordance with the provisions of the [1]Indian Majority Act, 1875, or of the law to which he is subject in respect of the attainment of majority, shall be permitted to make the declaration prescribed by this section, nor shall any such person edit a newspaper."

IX of 1875.

3. In section 7—

(*a*) After the words "custody of such declarations," the words "or, in the case of the editor, a copy of the newspaper containing his name printed on it as that of the editor";

(*b*) After the words "to such declaration," the words "or printed on such newspaper, as the case may be";

(*c*) After the words "in the declaration," the words "or the editor of every portion of that issue of the newspaper of which a copy is produced";

shall be inserted.

4. In sections 7, 8 and 9, for the words "periodical work", wherever they occur, the word "newspaper" shall be substituted.

5. After section 8 the following section shall be inserted, namely:—

"8A. If any person, whose name has appeared as editor on a copy of a newspaper, claims that he was not the editor of the issue on which his name has so appeared, he may, within two weeks of his becoming aware that his name has been so published, appear before a District, Presidency or Sub-divisional Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof, and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true, he shall certify accordingly, and on that certificate being given the provisions of section 7 shall not apply to that person in respect of that issue of the newspaper.

Person whose name has been incorrectly published as editor may make a declaration before a Magistrate.

The Magistrate may extend the period allowed by this section in any case where he is satisfied that such person was prevented by sufficient cause from appearing and making the declaration within that period."

6. After section 11 the following section shall be inserted, namely:—

"11A. The printer of every newspaper in British India shall deliver at such place and to such officer as the Local Government may, by notification in the local official Gazette, direct, and free of expense to the

Copies of newspaper printed in British India.

[1] General Acts, Vol. II.

to be delivered *gratis* to Government.

Government, two copies of each issue of such newspaper as soon as it is published."

7. In sections 12, 13, 14 and 15, for the words "two years", wherever they occur, the words "six months", and for the words "five thousand", wherever they occur, the words "two thousand" shall be substituted.

8. In section 15—

(*a*) After the words "whoever shall", in the two places where they occur, the word "edit" shall be inserted;

(*b*) For the words "such periodical work as is hereinbefore described", the word "newspaper" shall be substituted;

(*c*) After the words "shall cause to be", the word "edited" shall be inserted;

(*d*) For the words "such periodical work", where they occur for the second time, the word "newspaper" shall be substituted; and

(*e*) For the words "that work", the words "that newspaper" shall be substituted.

9. After section 16 the following section shall be inserted, namely:—

Penalty for failure to supply copies of newspapers *gratis* to Government.

"16A. If any printer of any newspaper published in British India neglects to deliver copies of the same in compliance with section 11A, he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorised by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default."

THE SECOND SCHEDULE.

(*See section 4.*)

THE SEA CUSTOMS ACT, 1878 (VIII OF 1878).

After section 181 the following sections shall be inserted, namely:—

Power to detain packages containing certain publications imported into British India.

"181A. (*1*) The Chief Customs-officer or other officer authorised by the Local Government in this behalf may detain any package brought whether by land or sea into British India which he suspects to contain—

(*a*) any newspaper or book as defined in the [1]Press and Registration of Books Act, 1867, or XXV of 1867.

(*b*) any document,

containing any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the [1]Indian Penal Code, and shall forward such package to such officer as the Local XLV of 1860. Government may appoint in this behalf.

[1] General Acts, Vol. I.

(*2*) Any officer detaining a package under the provisions of sub-section (*1*) shall, where practicable, forthwith send by post to the addressee or consignee of such package notice of the fact of such detention.

(*3*) The Local Government shall cause the contents of such package to be examined, and if it appears to the Local Government that the package contains any such newspaper, book or other document, containing any such seditious matter, may pass such orders as to the disposal of the package and its contents as it may deem proper, and, if it does not so appear, shall release the package and its contents unless the same be otherwise liable to seizure under any law for the time being in force:

Provided that any person interested in any package detained under the provisions of this section may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper:

Provided, further, that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the package or its contents on the ground that the package did not contain any such newspaper, book or other document containing any such seditious matter.

(*4*) In this section "document" includes also any painting, drawing or photograph, or other visible representation.

Procedure for disposal by High Court of applications for release of packages so detained.

181B. Every application under the second proviso to sub-section (*3*) of section 181A shall be heard and determined, in the manner provided by sections 99D to 99F of the [1]Code of Criminal Procedure, 1898, by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code.

V of 1898.

Jurisdiction barred.

181C. No order passed or action taken under section 181A shall be called in question in any Court otherwise than in accordance with the second proviso to sub-section (*3*) of that section."

THE THIRD SCHEDULE.

(*See section 5.*)

THE CODE OF CRIMINAL PROCEDURE, 1898 (V OF 1898).

1. After section 99 the following sections shall be inserted, namely:—

"99A. (*1*) Where—

Power to declare certain publications forfeited, and

(*a*) any newspaper, or book as defined in the [2]Press and Registration of Books Act, 1867, or

XXV of 1867.

[2] General Acts, Vol. I.
[1] General Acts, Vol. V.

to issue search warrants for the same.

(*b*) any document,

wherever printed, appears to the Local Government to contain any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the [1]Indian Penal Code, the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same, wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be. XLV of 1860.

(*2*) In sub-section (*1*) 'document' includes also any painting, drawing or photograph, or other visible representation.

Application to High Court to set aside order of forfeiture.

99B. Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain any seditious matter.

Hearing by Special Bench.

99C. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges.

Order of Special Bench setting aside forfeiture.

99D. (*1*) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained seditious matter of the nature referred to in sub-section (*1*) of section 99A, set aside the order of forfeiture.

(*2*) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

Evidence to prove nature or tendency of newspapers.

99E. On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, which are alleged to be seditious matter.

Procedure in High Court.

99F. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such Courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

[1] General Acts, Vol. I.

99G. No order passed or action taken under section 99A shall be called in question in any Court otherwise than in accordance with the provisions of section 99B." Jurisdiction barred.

2. In section 101 after the words " section 98 " the words " section 99A " shall be inserted.

THE FOURTH SCHEDULE.

(See section 6.)

THE INDIAN POST OFFICE ACT, 1898 (VI OF 1898).

After section 27, the following sections shall be inserted, namely:—

" 27A. No newspaper printed and published in British India without conforming to the rules laid down in the [1]Press and Registration of Books Act, 1867, shall be transmitted by post. Prohibition of transmission by post of certain newspapers.
XXV of 1867.

27B. (*1*) Any officer of the Post Office authorised by the Postmaster-General in this behalf may detain any postal article in course of transmission by post which he suspects to contain— Power to detain newspapers and other articles being transmitted by post.

(*a*) (*i*) any newspaper or book as defined in the [1]Press and Registration of Books Act, 1867, or
XXV of 1867.

(*ii*) any document,

containing any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the [1]Indian Penal Code; or
XLV of 1860.

(*b*) any newspaper as defined in the [1]Press and Registration of Books Act, 1867, edited, printed or published otherwise than in conformity with the rules laid down in that Act;
XXV of 1867.

and shall deliver any postal article so detained to such officer as the Local Government may appoint in this behalf.

(*2*) Any officer detaining any postal article under the provisions of sub-section (*1*) shall forthwith send by post to the addressee of such article notice of the fact of such detention.

(*3*) The Local Government shall cause the contents of any postal article detained under sub-section (*1*) to be examined, and, if it appears to the Local Government that the article contained any newspaper, book or other document of the nature described in clause (*a*) or clause (*b*) of sub-section (*1*), may pass such orders as to the disposal of the article and its contents as it may deem proper, and, if it does not so appear, shall release the article and its contents, unless the same be otherwise liable to seizure under any law for the time being in force:

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[1] General Acts, Vol. I.

Provided that any person interested in any article detained under the provisions of clause (*a*) of sub-section (*1*) may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper:

Provided also that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the article and its contents on the ground that the article did not contain any newspaper, book or other document containing any seditious matter.

(*4*) In this section 'document' includes also any painting, drawing or photograph, or other visible representation.

Procedure for disposal by High Court of applications for release of newspapers and articles so detained.

27C. Every application made under the second proviso to sub-section (*3*) of section 27B shall be heard and determined in the manner provided by sections 99D to 99F of the [1]Code of Criminal Procedure, 1898, by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code. V of 1898.

Jurisdiction barred.

27D. No order passed or action taken under section 27B shall be called in question in any Court otherwise than in accordance with the second proviso to sub-section (*3*) of that section."

ACT No. XV OF 1922.[2]

[*29th March, 1922.*]

An Act to regulate the employment of child labour in ports in British India.

WHEREAS it is expedient to regulate the employment of child labour in ports in British India; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Ports (Amendment) Act, 1922.

Amendment of section 6, Act XV of 1908.

2. In section 6 of the [3]Indian Ports Act, 1908,— XV of 1908.

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) In addition to any rules which it is empowered to make under sub-section (*1*), the Local Government shall make rules prohibiting the employment at piers, jetties, landing-

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[1] General Acts, Vol. V.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 176.
[3] General Acts, Vol. VI.

places, wharves, quays, docks, warehouses and sheds of children under the age of twelve years upon the handling of goods;" and

(*b*) in sub-section (*2*), after the word and figure " sub-section (*1*) " the words and figure " and sub-section (*1A*) " shall be inserted.

ACT No. XVI OF 1922.[1]

[*30th September, 1922.*]

An Act further to amend the Indian Extradition Act, 1903.

WHEREAS it is expedient further to amend the [2]Indian Extradition Act, 1903; It is hereby enacted as follows:—

XV of 1903.

1. This Act may be called the Indian Extradition (Amendment) Act, 1922. Short title.

XV of 1903.

2. In the First Schedule to the [2]Indian Extradition Act, 1903, for the words " Desertion from any body of Imperial Service Troops ", the following shall be substituted, namely:— Amendment of the First Schedule, Act XV of 1903.

" Desertion from any unit of Indian State Forces declared by the Governor General in Council, by notification in the Gazette of India, to be a unit desertion from which is an extradition offence."

ACT No. XVII OF 1922.[3]

[*30th September, 1922.*]

An Act further to amend the Indian Museum Act, 1910.

X of 1910.

WHEREAS it is expedient further to amend the [4]Indian Museum Act, 1910; It is hereby enacted as follows:—

1. This Act may be called the Indian Museum (Amendment) Act, 1922. Short title.

X of 1910.

2. In clause (*a*) of sub-section (*1*) of section 2 of the [4]Indian Museum Act, 1910,— Amendment of section 2, Act X of 1910.

(*a*) for the word " six " the word " seven " shall be substituted;

(*b*) for sub-clause (*iv*) the following sub-clause shall be substituted, namely:—

" (*iv*) the Director, Zoological Survey of India;" and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 298.
[2] General Acts, Vol. V.
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 299.
[4] General Acts, Vol. VII, and Bengal Code, Vol. I.

(*c*) the word "and" at the end of sub-clause (*v*) shall be omitted; sub-clause (*vi*) shall be re-numbered sub-clause (*vii*); and after sub-clause (*v*) the following sub-clause shall be inserted, namely:—

"(*vi*) the Superintendent, Archæological Section of the Museum; and".

ACT No. XVIII OF 1922.[1]

[*3rd October, 1922.*]

An Act further to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient further to amend the [2]Negotiable Instruments Act, 1881; It is hereby enacted as follows:— XXVI of 1881.

Short title

1. This Act may be called the Negotiable Instruments (Amendment) Act, 1922.

Amendment of section 131, Act XXVI of 1881.

2. To section 131 of the [2]Negotiable Instruments Act, 1881, the following *Explanation* shall be added, namely:— XXVI of 1881.

"*Explanation.*—A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof."

ACT No. XIX OF 1922.[3]

[*3rd October, 1922.*]

An Act further to amend the Court-fees Act, 1870.

WHEREAS it is expedient further to amend the [4]Court-fees Act, 1870; It is hereby enacted as follows:— VII of 1870.

Short title.

1. This Act may be called the Court-fees (Amendment) Act, 1922.

Amendment of section 4, Act VII of 1870.

2. In section 4 of the [4]Court-fees Act, 1870, for the words "judgment of two" the words and brackets "judgments (other than judgments VII of 1870.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 243.
[2] General Acts, Vol. III.
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 241.
[4] General Acts, Vol. II.

passed in the exercise of the ordinary original civil jurisdiction of the Court) of one" shall be substituted.

ACT No. XX OF 1922.[1]

[*3rd October, 1922.*]

An Act further to amend the Parsi Marriage and Divorce Act, 1865.

WHEREAS it is expedient further to amend the [2]Parsi Marriage and Divorce Act, 1865; It is hereby enacted as follows:— XV of 1865.

1. This Act may be called the Parsi Marriage and Divorce (Amendment) Act, 1922. Short title.

2. After section 38 of the [2]Parsi Marriage and Divorce Act, 1865 (hereinafter referred to as the said Act), the following section shall be inserted, namely:— XV of 1865. Insertion of new section 39 in Act XV of 1865.

"39. Notwithstanding anything contained in section 16 or section 17, where in the case of a trial in a Parsi Chief Matrimonial Court, not less than nine or, in the case of a trial in a Parsi District Matrimonial Court, not less than six, delegates have attended throughout the proceedings, the trial shall not be invalid by reason of the absence during any part thereof of the other delegate or delegates. Absence of delegates during trial.

Where at any stage of a trial in a Parsi Chief Matrimonial Court less than nine, or in a Parsi District Matrimonial Court less than six, delegates are present who have attended throughout the proceedings and the presiding Judge is of opinion that it is not possible without undue delay to secure the attendance throughout the proceedings of nine or six delegates, as the case may be, the proceedings shall be stayed and a new trial shall be held with the aid of fresh delegates."

3. (*1*) In section 41 of the said Act, for the words "before whom the case is tried" the words "who have attended throughout the trial" shall be substituted. Amendment of section 41, Act XV of 1865.

(*2*) To the same section the following proviso shall be added, namely:—

"Provided that, where such delegates are equally divided in opinion, the decision on the facts shall be the decision of the presiding Judge."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 242.
[2] General Acts, Vol. I.

ACT No. XXI OF 1922.[1]

[*3rd October, 1922.*]

An Act further to amend the Official Trustees Act, 1913, and the Administrator General's Act, 1913.

WHEREAS it is expedient further to amend the [2]Official Trustees Act, 1913, and the Administrator General's Act, 1913; It is hereby enacted as follows:— II of 1913. III of 1913.

Short title.

1. This Act may be called the Official Trustees and Administrator General's Acts Amendment Act, 1922.

PART I.

Amendment of section 2, Act II of 1913.

2. To section 2 of the [2]Official Trustees Act, 1913 (hereinafter in this Part referred to as the said Act), after clause (*6*) the following clause shall be added, namely:— II of 1913.

"(*7*) 'revenues of the Government' means, in respect of any part of India in which the powers and duties of the Government under this Act are exercised and discharged by a Local Government, the revenues allocated to that Government under the Government of India Act."

Amendment of section 15, Act II of 1913.

3. In section 15 of the said Act,—

(*a*) the words "of India", where they first occur, shall be omitted; and

(*b*) after the word "revenues", where it occurs for the second time in sub-section (*1*), and after the same word in sub-section (*2*), the words "of the Government or" shall be inserted.

Amendment of sections 17, 18, 23 and 24, Act II of 1913.

4. In sections 17, 18, 23 and 24 of the said Act, the words "of India", wherever they occur, shall be omitted.

PART II.

Amendment of section 2, Act III of 1913.

5. To section 2 of the [2]Administrator General's Act, 1913 (hereinafter in this Part referred to as the said Act), after clause (*10*) the following clause shall be added, namely:— III of 1913.

"(*11*) 'revenues of the Government' means, in respect of any part of India in which the powers and duties of the Government under this Act are exercised and discharged by a

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 251.
[2] General Acts, Vol. VII.

Local Government, the revenues allocated to that Government under the Government of India Act."

6. In section 39 of the said Act,— Amendment of section 39, Act III of 1913.

(*a*) in sub-section (*1*), the words "of India", where they first occur, shall be omitted and after the word "revenues", where it occurs for the second time, the words "of the Government or" shall be inserted; and

(*b*) in sub-section (*2*), after the words "to render" the words "the Government or" shall be inserted.

7. In sections 42, 43, 52 and 53 of the said Act, the words "of India", wherever they occur, shall be omitted. Amendment of sections 42, 43, 52 and 53, Act III of 1913.

ACT No. XXII OF 1922.[1]

[*5th October, 1922.*]

An Act to provide a penalty for spreading disaffection among the police and for kindred offences.

WHEREAS it is expedient to penalize the spreading of disaffection among the police and other kindred offences; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Police (Incitement to Disaffection) Act, 1922. Short title, extent and commencement.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force in any province or part of a province on such date[2] as the Local Government may, by notification in the local official Gazette, direct.

2. In this Act, the expression "member of a police-force" means any person appointed or enrolled for the performance of police duties under any enactment specified in the Schedule. Definition.

3. Whoever intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection towards His Majesty or the Government established by law in British India amongst the members of a police-force, or induces or attempts to induce, or does any act which he knows is likely to induce, any member of a police-force to Penalty for causing disaffection, etc.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 62; and for Report of Select Committee, *see ibid*, 1922, Pt. V, p. 253.

[2] In Burma from 28th November, 1922, *see* Burma Gazette, 1922, Pt. I, p. 1057.
In Assam from 25th January, 1923, *see* Assam Gazette, 1923, Pt. II, p. 113.

withhold his services or to commit a breach of discipline shall be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Explanation.—Expressions of disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, or of disapprobation of the administrative or other action of the Government, do not constitute an offence under this section unless they cause or are made for the purpose of causing or are likely to cause disaffection.

Saving of acts done by police associations and other persons for certain purposes.

4. Nothing shall be deemed to be an offence under this Act which is done in good faith—

(*a*) for the purpose of promoting the welfare or interests of any member of a police-force by inducing him to withhold his services in any manner authorised by law; or

(*b*) by or on behalf of any association formed for the purpose of furthering the interests of members of a police-force as such, where the association has been authorised or recognised by the Government and the act done is done under any rules or articles of the association which have been approved by the Government.

Sanction to trial of offences by subordinate Courts.

5. No Court shall proceed to the trial of any offence under this Act except with the previous sanction, or on the complaint, of the District Magistrate or, in the case of a Presidency-town or the town of Rangoon, of the Commissioner of Police.

Trial of cases.

6. (*1*) No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act.

(*2*) Notwithstanding anything contained in Chapter XXII of the [1]Code of Criminal Procedure, 1898, no offence under this Act shall be triable summarily. V of 1898.

THE SCHEDULE.

(*See section 2.*)

Year.	No.	Short title.
		Acts of the Governor General in Council.
1859	XXIV	The Madras District Police Act, 1859.
1861	V	The Police Act, 1861.
1887	XV	The Burma Military Police Act, 1887.
1888	III	The Police Act, 1888.
1892	V	The Bengal Military Police Act, 1892.
		Madras Act.
1888	III	The Madras City Police Act, 1888.

[1] General Acts, Vol. V.

THE SCHEDULE—*contd.*

Year.	No.	Short title.
		Bombay Acts.
1890	IV	The Bombay District Police Act, 1890.
1902	IV	The City of Bombay Police Act, 1902.
		Bengal Acts.
1866	II	The Calcutta Suburban Police Act, 1866.
	IV	The Calcutta Police Act, 1866.
1890	III	The Calcutta Port Act, 1890.
1920	II	The Eastern Frontier Rifles (Bengal Battalion) Act, 1920.
		Burma Act.
1899	IV	The Rangoon Police Act, 1899.
		Assam Act.
1920	I	The Assam Rifles Act, 1920.
		Regulation by the Governor General in Council.
1888	II	The Andaman and Nicobar Islands Military Police Regulation, 1888.

ACT No. I OF 1923.[1]

[*1st February, 1923.*]

An Act further to amend the Criminal Tribes Act, 1911.

III of 1911. WHEREAS it is expedient further to amend the [2]Criminal Tribes Act, 1911; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Criminal Tribes (Amendment) Act, 1923.

III of 1911. Amendment of section 2, Act III of 1911. **2.** In section 2 of the [2]Criminal Tribes Act, 1911 (hereinafter referred to as the said Act),—

(*a*) after clause (*l*) the following clauses shall be inserted, namely:—

"(*la*) 'district' includes a Presidency-town and the town of Rangoon;

(*lb*) 'District Magistrate' means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police;" and

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 227; and for Report of Select Committee, *see ibid*, 1922, Pt. V, p. 331.
[2] General Acts, Vol. VII.

(*b*) after clause (*2*) the following clause shall be inserted, namely:—

"(*2a*) 'Superintendent of Police' means, in the case of a Presidency-town or the town of Rangoon, any officer appointed by the Local Government to perform the duties of a Superintendent of Police under this Act."

Amendment of section 4, Act III of 1911.

3. In section 4 of the said Act, the words "or of any part thereof" shall be omitted.

Amendment of section 5, Act III of 1911.

4. In section 5 of the said Act,—

(*a*) for the words "a notice" the word "notice" shall be substituted;

(*b*) the words "or of such part thereof as is directed to be registered" shall be omitted; and

(*c*) in the proviso, the words "or part thereof" shall be omitted, and after the word "registration" the words "and may cancel any such exemption" shall be added.

Amendment of section 13, Act III of 1911.

5. In section 13 of the said Act, after the word "settled" the following shall be added, namely:—

"and any officer empowered in this behalf by the Local Government may, by order in writing, vary any notification made under section 11 or under this section by directing the restriction of such criminal tribe to another area, or, as the case may be, its settlement in another place, in the same district."

Insertion of new section 13A in Act III of 1911. Power of Local Government to restrict or settle criminal tribe in another province.

6. After section 13 of the said Act the following section shall be inserted, namely:—

"13A. Any notification made by the Local Government under section 11 or section 13 may specify, as the area to which the criminal tribe shall be restricted or as the place in which it shall be settled, an area or place situated in any other province, provided that the consent of the Local Government of that province shall first have been obtained."

Substitution of new section for section 15, Act III of 1911.

7. For section 15 of the said Act the following section shall be substituted, namely:—

Application of Act when criminal tribe is transferred from one province or district to another.

"15. (*1*) Where a criminal tribe is restricted in its movements to an area, or is settled in a place of residence, situated in a province other than that by the Local Government of which the notification under section 3 relating to such criminal tribe was issued, all the provisions of this Act and the rules made hereunder shall apply to the criminal tribe as if the notification had been issued by the Local Government of such other province.

(*2*) If a criminal tribe, having been registered under section 4 in any district, is restricted in its movements to an area, or is settled in a place of residence, situated in another district (whether in the same province or not), the register or any relevant entries or entry therein shall be transferred to the Superintendent of Police of the last-mentioned district, and all the provisions of this Act and the rules made hereunder shall apply as if such criminal tribe had been registered in that district, and the District Magistrate of that district shall have power to cancel any exemption granted under section 5."

Amendment of section 16, Act III of 1911.

8. In section 16 of the said Act, the words "Governor General in Council or the" and the words "or any part thereof" shall be omitted; and to the same section the following proviso shall be added, namely:—

"Provided that no criminal tribe shall be placed in a settlement unless the necessity for so placing it has been established to the satisfaction of the Local Government, after an inquiry held by such authority and in such manner as may be prescribed."

Amendment of section 18, Act III of 1911.

9. In section 18 of the said Act,—

(*a*) after the words "Local Government" the words "or any officer authorised by it in this behalf" shall be inserted; and

(*b*) in clause (*b*), the word "like" shall be omitted.

Amendment of section 20, Act III of 1911.

10. In sub-section (*2*) of section 20 of the said Act,—

(*a*) after clause (*e*) the following clause shall be inserted, namely:—

"(*ee*) the circumstances in which members of a criminal tribe shall be required to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted;" and

(*b*) after clause (*h*) the following clause shall be inserted, namely:—

"(*hh*) the authority by whom and the manner in which the inquiry referred to in section 16 shall be held."

Amendment of section 22, Act III of 1911.

11. In section 22 of the said Act,—

(*a*) to sub-section (*1*) the words "or with fine which may extend to five hundred rupees, or with both" shall be added;

(*b*) in sub-section (*2*), for the words "a rule made under any other clause of" the words "any other rule made under" shall be substituted; and

(*c*) after sub-section (*2*) the following sub-section shall be added, namely:—

"(*3*) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence within the meaning of the [1]Code of Criminal Procedure, 1898, may be arrested without a warrant by any officer in charge of a police-station or by any police-officer not below the rank of a sub-inspector." V of 1898.

Insertion of new sections 27A and 27B in Act III of 1911.

12. After section 27 of the said Act the following sections shall be inserted, under the heading "Supplemental," namely:—

Power to deport certain criminal tribes to States in India.

"27A. The Local Government, if it is satisfied that adequate provision has been made by the law of any State in India for the restriction of the movements or the settlement in a place of residence of persons such as are referred to in section 3, and for securing the welfare of persons so restricted or settled, may, with the consent of the Prince or Chief of that State, direct the removal to that State of any criminal tribe for the time being in the province, and may authorise the taking of all measures necessary to effect such removal:

Provided that no person shall be so removed if the Local Government is satisfied that he is a subject of His Majesty.

References to a criminal tribe to include references to part or member thereof in certain cases.

27B. The references to a criminal tribe in sections 4, 5, 14, 17 and 27A shall be deemed to be references to a criminal tribe or any part thereof, and the like references in sections 11, 13, 13A, 15 and 16 shall be deemed to be references to a criminal tribe or any part or member thereof."

ACT No. III OF 1923.[2]

[*23rd February, 1923.*]

An Act to provide for the restriction and control of the transport of cotton in certain circumstances.

WHEREAS it is expedient for the purpose of maintaining the quality and reputation of the cotton grown in certain areas in British India to enable the restriction and control of the transport by rail and the import of cotton into those areas; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Cotton Transport Act, 1923.

(*2*) It extends to the whole of British India.

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[1] General Acts, Vol. V.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 213; and for Report of Joint Committee, *see ibid*, 1923, Pt. V, p. 1.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "certified copy", in relation to a licence, means a copy of the licence certified in the manner described in section 76 of the [1]Indian Evidence Act, 1872, by the authority by which the licence was granted;

I of 1872.

(*b*) "cotton" means every kind of unmanufactured cotton, that is to say, ginned and unginned cotton, cotton waste and cotton seed;

(*c*) "cotton waste" means droppings, strippings, fly and other waste products of a cotton-mill other than yarn waste;

(*d*) "licence" means a licence granted under this Act;

(*e*) "notified station" means a railway station specified in a notification under section 3;

(*f*) "prescribed" means prescribed by rules made under this Act; and

(*g*) "protected area" means an area into which the import of cotton or of any kind of cotton has been prohibited by a notification under section 3.

Power to issue notification prohibiting import of cotton into protected area.

3. (*1*) The Local Government may, for the purpose of maintaining the quality or reputation of the cotton grown in any area in the Province, by notification in the local official Gazette, prohibit the import of cotton or of any specified kind of cotton into that area save under, and in accordance with the conditions of, a licence:

Provided that no such notification shall be deemed to prohibit the import into any protected area of packages containing any kind of cotton and not exceeding ten pounds avoirdupois weight.

(*2*) Any such notification may prohibit the delivery to, and the taking of delivery by, any person, at any specified railway station situated in the protected area, of any cotton, the import of which into that area is prohibited when such cotton has been consigned from a railway station not situated in that area, unless such person holds a licence for the import of the cotton into that area.

Refusal to carry unlicensed cotton.

4. (*1*) Notwithstanding anything contained in the [2]Indian Railways Act, 1890, or any other law for the time being in force, the station master of any railway station or any other railway servant responsible for the booking of goods or parcels at that station may refuse to receive for carriage at, or to forward or allow to be carried on the railway from, that station any cotton consigned to a notified station, being cotton of a kind of which the delivery at such notified station has been prohibited unless both stations are in the same protected area, or unless the consignor produces a certified copy of a licence for the import of the cotton into the protected area in which such notified station is situated.

IX of 1890.

[1] General Acts, Vol. II.
[2] General Acts, Vol. IV.

(*2*) Every certified copy of a licence when so produced shall be attached to the invoice or way-bill, as the case may be, and shall accompany the consignment to its destination, and shall there be dealt with in the prescribed manner.

(*3*) Where by or under any law in force in the territories of any State in India the import into any area, or the delivery at any railway station, of cotton or of any kind of cotton has been prohibited, the Governor General in Council may, by notification in the Gazette of India, declare that the provisions of sub-section (*1*) shall apply in respect of cotton consigned to any such station as if such area and such station were respectively a protected area and a notified station, and as if any licence granted under such law were a licence granted under this Act.

Procedure where cotton arrives at notified station.

5. (*1*) Where any cotton, the import of which into any protected area has been prohibited, has been consigned to and arrives at a notified station in any such protected area, the station master or other railway servant responsible for the receipt and delivery to the consignee of goods or parcels, as the case may be, at that station shall, unless both the notified station and the railway station from which the cotton has been consigned are situated in the same protected area, refuse to deliver the cotton until he is satisfied that the consignee holds a licence for the import of the cotton into the protected area in which such notified station is situated; and, if he is not so satisfied, or if within fourteen days the consignee or some person acting on his behalf does not appear in order to take delivery, shall return the cotton to the railway station from which it was consigned, together with an intimation that delivery of the cotton has been refused or has not been taken, as the case may be.

(*2*) Any station master or other railway servant receiving any cotton returned under sub-section (*1*), or returned with a like intimation from a railway station specified in a notification under sub-section (*3*) of section 4, shall cause to be served on the consignor in any manner authorised by section 141 of the [1]Indian Railways Act, 1890, a notice IX of 1890. stating that the cotton has been so returned and requiring the consignor to pay any rate, terminal or other charges due in respect of the carriage of the cotton to and from the railway station to which it was consigned, and such charges shall be deemed to be due from the consignor for all the purposes of section 55 of that Act.

Penalties.

6. Any person who, in contravention of the provisions of this Act or of any notification or rule made hereunder, knowingly takes delivery of any cotton from a notified station or imports, or attempts to import, any cotton into a protected area, and any station master or other railway servant who, in contravention of the provisions of sub-section (*1*) of section 5, without reasonable excuse, the burden of proving which shall lie upon him, delivers any cotton to a consignee or other person, shall be liable to a fine not exceeding one thousand rupees, and upon any

[1] General Acts, Vol. IV.

subsequent conviction to imprisonment which may extend to three months, or to fine which may extend to five thousand rupees, or to both.

Power to make rules.

7. (*1*) The Local Government may, by notification in the local official Gazette, make rules to provide for any of the following matters, namely:—

(*a*) the prevention of the import into a protected area by road, river or sea, save under and in accordance with the conditions of a licence, of cotton the import of which into that area has been prohibited by a notification under section 3;

(*b*) the terms and conditions to be contained in licences and the authorities by which they may be granted; and

(*c*) the manner in which licences and certified copies thereof shall be dealt with on and after the delivery of the cotton to which they relate.

(*2*) Any such rules may provide that any contravention thereof or of the conditions of any licence, not otherwise made punishable by this Act, shall be punishable with fine which may extend to five hundred rupees.

Previous approval of Local Legislature to issue of notifications and rules.

8. No notification under section 3 or rule under section 7 shall be issued by the Local Government of any Governor's Province, unless it has been laid in draft before the Legislative Council of the Province, and has been approved by a Resolution of the Legislative Council, either with or without modification or addition, but upon such approval being given the notification or rule, as the case may be, may be issued in the form in which it has been so approved.

Protection for acts done under Act.

9. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

ACT No. IV OF 1923.[1]

[*23rd February, 1923.*]

An Act to amend and consolidate the law relating to the regulation and inspection of mines.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation and inspection of mines; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Mines Act, 1923.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 327; and for Report of Joint Committee, *see ibid*, 1923, Pt. V, p. 25.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

Saving of Reg. XII of 1887.

2. Nothing in this Act shall be construed to affect the provisions of the [1]Upper Burma Ruby Regulation, 1887. XII of 1887.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "agent," when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof and as such superior to a manager under this Act;

(*b*) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;

(*c*) "child" means a person under the age of thirteen years;

(*d*) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(*e*) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

(*f*) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine:

provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals;

(*g*) "owner," when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working

[1] Burma Code.

of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

(*h*) "prescribed" means prescribed by regulations, rules or bye-laws;

(*i*) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act;

21 & 22 Vict., c. 90.

(*j*) "regulations," "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;

(*k*) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days; and

(*l*) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

CHAPTER II.

INSPECTORS.

Chief Inspector and Inspectors.

4. (*1*) The Governor General in Council may, by notification in the Gazette of India, appoint a duly qualified person to be Chief Inspector of Mines for the whole of British India, and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector.

(*2*) No person shall be appointed to be Chief Inspector or an Inspector, or, having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any mine or mining rights in India.

(*3*) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Local Government:

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32.

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the [1]Indian Penal Code. XLV of 1860.

Functions of Inspectors.

5. (1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

Powers of Inspectors of Mines.

6. The Chief Inspector and any Inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants (if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine;

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine.

Powers of special officer to enter, measure, etc.

7. Any person in the service of the Government duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine.

Facilities to be afforded to Inspectors.

8. Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

Secrecy of information obtained.

9. (1) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course

[1] General Acts, Vol. I.

of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential.

(*2*) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (*1*) discloses to any one, other than a Magistrate or an officer to whom he is subordinate, any such information as aforesaid without the consent of the Governor General in Council or of the Local Government, he shall be guilty of a breach of official trust, and shall be punishable in the manner provided by section 4 of the XV of 1889. [1]Indian Official Secrets Act, 1889.

(*3*) No Court shall proceed to the trial of any offence under this section except on complaint made by order of, or under authority from, the Governor General in Council or the Local Government, or made by a person aggrieved by the offence.

CHAPTER III.

Mining Boards and Committees.

Mining Boards.

10. (*1*) The Local Government may constitute for the province, or for any part of the province, or for any group or class of mines in the province, a Mining Board consisting of—

(*a*) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Local Government to act as chairman;

(*b*) the Chief Inspector or an Inspector;

(*c*) two persons, neither of whom shall be the Chief Inspector or an Inspector nominated by the Local Government, of whom one shall be a person qualified to represent the interests of persons employed in mines;

(*d*) two persons nominated by owners of mines or their representatives in such manner as may be prescribed.

(*2*) The chairman shall appoint a person to act as secretary to the Board.

(*3*) The Local Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

Committees.

11. (*1*) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

(*a*) a chairman nominated by the Local Government or by such officer or authority as the Local Government may authorise in this behalf;

[1] This Act was repealed by the Indian Official Secrets Act, 1923 (XIX of 1923), *infra*.

(*b*) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and

(*c*) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Local Government to represent the interests of the persons employed in the mine.

(*2*) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(*3*) Where an owner, agent or manager fails to exercise his power of nomination under clause (*c*) of sub-section (*1*), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(*4*) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Local Government.

(*5*) On receiving such report the Local Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Local Government may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine.

(*6*) The Local Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of the expenses of the inquiry including such remuneration.

Powers of Mining Boards.

12. (*1*) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(*2*) Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the [1]Code of Civil Procedure, 1908, for the purpose of V of 1908.
enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be

[1] General Acts, Vol. VI.

deemed to be legally bound to do so within the meaning of section 176 of the [1]Indian Penal Code. XLV of 1860.

Recovery of expenses.

13. The Local Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such owner, agent or manager.

CHAPTER IV.

Mining Operations and Management of Mines.

Notice to be given of mining operations.

14. The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

Managers.

15. (*1*) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

(*2*) If any mine is worked without there being a manager for the mine as required by sub-section (*1*), the owner and agent shall each be deemed to have contravened the provisions of this section.

Duties and responsibilities of owners, agents and managers.

16. (*1*) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

(*2*) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention:

Provided that the owner or agent shall not be so deemed if he proves—

(*a*) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and

[1] General Acts, Vol. I.

(*b*) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and

(*c*) that the offence was committed without his knowledge, consent or connivance.

(*3*) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER V.

PROVISIONS AS TO HEALTH AND SAFETY.

Conservancy.

17. There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.

Medical appliances.

18. At every mine in respect of which the Local Government may, by notification in the local official Gazette, declare this section to apply, such supply of ambulances or stretchers, and of splints, bandages and other medical requirements, as may be prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.

19. (*1*) If, in any respect which is not provided against by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(*2*) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(*3*) Where an order has been made under sub-section (*2*) by an Inspector, the owner, agent or manager of the mine may, within ten

days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(*4*) The Chief Inspector or the Inspector making a requisition under sub-section (*1*) or an order under sub-section (*2*), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (*3*), shall forthwith report the same to the Local Government and shall inform the owner, agent or manager of the mine that such report has been so made.

(*5*) If the owner, agent or manager of the mine objects to a requisition made under sub-section (*1*) or to an order made by the Chief Inspector under sub-section (*2*), or sub-section (*3*), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Local Government, which shall refer the same to a Committee.

(*6*) Every requisition made under sub-section (*1*), or order made under sub-section (*2*), or sub-section (*3*) to which objection is made under sub-section (*5*), shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (*1*) pending its decision on the objection.

(*7*) Nothing in this section shall affect the powers of a Magistrate under section 144 of the [1]Code of Criminal Procedure, 1898.

V of 1898.

Notice to be given of accidents.

20. When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed.

Power of Government to appoint court of inquiry in cases of accidents.

21. (*1*) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the Local Government, if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(*2*) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the [2]Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall

V of 1908.

[1] General Acts, Vol. V.
[2] General Acts, Vol. VI.

be deemed to be legally bound to do so within the meaning of section 176 of the [1]Indian Penal Code. XLV of 1860.

(*3*) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(*4*) The person holding an inquiry under this section shall make a report to the Local Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

Publication of reports.

22. The Local Government may cause any report submitted by a Committee under section 11 or by a court of inquiry under section 21 to be published at such time and in such manner as it may think fit.

CHAPTER VI.

Hours and Limitation of Employment.

Hours of employments.

23. No person shall be employed in a mine—

(*a*) on more than six days in any one week,

(*b*) if he works above ground, for more than sixty hours in any one week,

(*c*) if he works below ground, for more than fifty-four hours in any one week.

Supervising staff.

24. Nothing in section 23 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

Exemption from provisions regarding employment.

25. In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provisions of section 19, permit persons to be employed in contravention of section 23 on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

Children.

26. No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

Disputes as to age.

27. (*1*) If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child, the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

[1] General Acts, Vol. I.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

Register of employees.

28. For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine, of their hours of work, of their days of rest, and of the nature of their respective employments.

CHAPTER VII.

Regulations, Rules and Bye-Laws.

Power of Governor General in Council to make regulations.

29. The Governor General in Council may, by notification in the Gazette of India, make regulations consistent with this Act for all or any of the following purposes, namely:—

(*a*) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector;

(*b*) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;

(*c*) for prescribing the duties of owners, agents and managers of mines and of persons acting under them;

(*d*) for prescribing the qualifications of managers of mines and of persons acting under them;

(*e*) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(*f*) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(*g*) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;

(*h*) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;

(*i*) for regulating, subject to the provisions of the [1]Indian Explosives Act, 1884, and of any rules made thereunder, the storage and use of explosives;

IV of 1884.

[1] General Acts, Vol. III.

(*j*) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women;

(*k*) for providing for the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;

(*l*) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;

(*m*) for providing for the ventilation of mines and the action to be taken in respect of dust and noxious gases;

(*n*) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling purposes;

(*o*) for requiring and regulating the use of safety lamps in mines;

(*p*) for providing against dangers arising out of the accumulation of water in mines;

(*q*) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;

(*r*) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record;

(*s*) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;

(*t*) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14; and

(*u*) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the [1]Indian Railways

[1] General Acts, Vol. IV.

IX of 1890

Act, 1890, or of any public work or classes of public works which the Local Government may, by general or special order, specify in this behalf.

Power of Local Governments to make rules.

30. The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

(*a*) for providing for the appointment of chairmen and members of Mining Boards, and for regulating the procedure of such Boards;

(*b*) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned;

(*c*) for prescribing the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, the formation and training of rescue brigades, and the training of men in ambulance work;

(*d*) for defining the persons who shall, for the purposes of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;

(*e*) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to be more than thirteen years of age, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

(*f*) for prescribing the form of register required by section 28;

(*g*) for prescribing abstracts of this Act and the vernacular in which the abstracts and the regulations, rules and bye-laws shall be posted as required by sections 32 and 33;

(*h*) for requiring the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public;

(*i*) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in His Majesty or any local authority or railway company as defined in the [1]Indian Railways Act, 1890;

IX of 1890.

[1] General Acts, Vol. IV.

(*j*) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted; and

(*k*) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

Prior publication of regulations and rules.

31. (*1*) The power to make regulations and rules conferred by sections 29 and 30 is subject to the condition of the regulations and rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the [1]General Clauses Act, 1897, as that after which a draft of X of 1897
regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(*3*) Before the draft of any regulation or rule is published under this section it shall be referred in the case of a regulation to every Mining Board constituted in British India, and in the case of a rule to every Mining Board constituted in the province; and the regulation or rule shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(*4*) Regulations and rules shall be published in the Gazette of India and the local official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

Bye-laws.

32. (*1*) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(*2*) If any such owner, agent or manager—

(*a*) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(*b*) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,

[1] General Acts, Vol. IV.

the Chief Inspector or Inspector may—

(*i*) propose a draft of such bye-laws as appear to him to be sufficient, or

(*ii*) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient,

and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(*3*) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (*2*), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (*1*), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the Local Government may, by general or special order, appoint in this behalf.

(*4*) (*a*) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Local Government for approval.

(*b*) The Local Government may make such modifications of the draft bye-laws as it thinks fit.

(*c*) Before the Local Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Local Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected, should be sent to the Local Government.

(*d*) Every objection shall be in writing and shall state—

(*i*) the specific grounds of objection, and

(*ii*) the omissions, additions or modifications asked for.

(*e*) The Local Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(*5*) The bye-laws, when so approved by the Local Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(*6*) The Local Government may, by order in writing, rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

Posting up of extracts from Act, regulations, etc.

33. There shall be kept posted up at or near every mine, in English and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER VIII.

Penalties and Procedure.

Obstruction.

34. (*1*) Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*2*) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

Falsification of records, etc.

35. Whoever—

(*a*) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(*b*) knowingly uses as true any such counterfeit or false certificate, or

(*c*) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a

certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(*d*) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(*e*) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Omission to furnish plans, etc.

36. Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

Contravention of provisions regarding employment of labour.

37. Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred rupees.

Notice of accidents.

38. Whoever, in contravention of the provisions of section 20, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to five hundred rupees, or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

Disobedience of orders.

39. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to one hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

Contravention of law with dangerous results.

40. (*1*) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or, if such contravention otherwise causes injury or danger to workers or other

persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

(*2*) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (*1*).

(*3*) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative:

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

Prosecution of owner, agent or manager.

41. No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector.

Limitation of prosecutions.

42. No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed.

Cognizance of offences.

43. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

Reference to Mining Board or Committee in lieu of prosecution in certain cases.

44. (*1*) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the Local Government with a view to such reference being made.

(*2*) On receipt of a report under sub-section (*1*), the Local Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER IX.

MISCELLANEOUS.

Decision of question whether a

45. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Local Government may

decide the question, and a certificate signed by a Secretary to the Local Government shall be conclusive on the point. mine is under this Act.

46. (*1*) The Governor General in Council may, by notification in the Gazette of India, exempt any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act: Power to exempt from operation of Act.

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all the other provisions of this Act.

(*2*) On the occurrence of any public emergency, the Local Government may, by an order in writing, confer any exemption which might be conferred by the Governor General in Council under sub-section (*1*). When such an order is made, a copy thereof shall forthwith be sent to the Governor General in Council.

47. The Governor General in Council and every Local Government may reverse or modify any order passed under this Act by any authority subject to his or its control, as the case may be. Power to alter or rescind orders.

48. This Act shall apply to mines belonging to the Crown. Application of Act to Crown mines

49. No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act. Saving.

50. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof. Repeals.

THE SCHEDULE.

(*See section 50.*)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1901	VIII	The Indian Mines Act, 1901.	The whole.
1914	IV	The Decentralisation Act, 1914.	So much of the Schedule as relates to the Indian Mines Act, 1901.
„	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Mines Act, 1901.

ACT No. V OF 1923.[1]

[*23rd February, 1923.*]

An Act to consolidate and amend the law relating to steam-boilers.

WHEREAS it is expedient to consolidate and amend the law relating to steam-boilers; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Boilers Act, 1923.

(*2*) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas.

(*3*) It shall come into force on such date as the Governor General in Council may, by notification[2] in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "accident" means an explosion of a boiler or steam-pipe or any damage to a boiler or steam-pipe which is calculated to weaken the strength thereof so as to render it liable to explode;

(*b*) "boiler" means any closed vessel exceeding five gallons in capacity which is used expressly for generating steam under pressure for use outside such vessel, and includes any mounting or other fitting attached to such vessel, which is wholly or partly under pressure when steam is shut off;

(*c*) "Chief Inspector" and "Inspector" mean, respectively, a person appointed to be a Chief Inspector and an Inspector under this Act;

(*d*) "owner" includes any person using a boiler as agent of the owner thereof and any person using a boiler which he has hired or obtained on loan from the owner thereof;

(*e*) "prescribed" means prescribed by regulations or rules made under this Act;

(*f*) "steam-pipe" means any main pipe exceeding three inches in internal diameter through which steam passes directly from a boiler to a prime-mover or other first user, and includes any connected fitting of a steam-pipe; and

(*g*) "structural alteration, addition or renewal" shall not be deemed to include any renewal or replacement of a petty nature when the part or fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 249; and for Report of Joint Committee, *see ibid*, 1923, Pt. V, p. 15.

[2] This Act comes into force from 1st January 1924, *see* Notification No. A-61, dated 4th December 1923, in Gazette of India, 1923, Pt. I, p. 1695.

Limitation of application.

3. (*1*) Nothing in this Act shall apply in the case of any boiler or steam-pipe—

(*a*) in any steam-ship as defined in section 3 of the [1]Indian Steam-ships Act, 1884, or in any steam-vessel as defined in section 2 of the [2]Inland Steam-vessels Act, 1917; or

VII of 1884.

I of 1917.

(*b*) belonging to or under the control of His Majesty's Navy or the Royal Indian Marine Service.

(*2*) The Governor General in Council may, by notification in the Gazette of India, declare that the provisions of this Act shall not apply in the case of boilers or steam-pipes, or of any specified class of boilers or steam-pipes, belonging to or under the control of any railway administered by the Government or by any railway company as defined in clause (*5*) of section 3 of the [3]Indian Railways Act, 1890.

IX of 1890.

Power to limit extent.

4. The Governor General in Council may, by notification in the Gazette of India, exclude any specified area from the operation of all or any specified provisions of this Act.

Appointment of Chief Inspectors and Inspectors.

5. (*1*) The Local Government may appoint such persons as it thinks fit to be Inspectors for the province for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act.

(*2*) The Local Government shall likewise appoint a person to be Chief Inspector for the province, who may, in addition to the powers and duties conferred or imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Inspectors.

(*3*) Every Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the [4]Indian Penal Code.

XLV of 1860.

Prohibition of use of unregistered or uncertificated boiler.

6. Save as otherwise expressly provided in this Act, no owner of a boiler shall use the boiler or permit it to be used—

(*a*) unless it has been registered in accordance with the provisions of this Act;

(*b*) in the case of any boiler which has been transferred from one province to another, until the transfer has been reported in the prescribed manner;

(*c*) unless a certificate or provisional order authorising the use of the boiler is for the time being in force under this Act;

(*d*) at a pressure higher than the maximum pressure recorded in such certificate or provisional order;

(*e*) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates

[1] General Acts, Vol. III.
[2] General Acts, Vol. VIII.
[3] General Acts, Vol. IV.
[4] General Acts, Vol. I.

of competency, unless the boiler is in charge of a person holding the certificate required by such rules:

Provided that any boiler registered, or any boiler certified or licensed, under any Act hereby repealed shall be deemed to have been registered or certified, as the case may be, under this Act:

Provided, further, that, until the expiration of twelve months from the commencement of this Act, nothing in this section shall be deemed to prohibit the use of any boiler in any local area in which the registration of, or a certificate or licence for the use of, a boiler was not previously required by law.

Registration.

7. (*1*) The owner of any boiler which is not registered under the provisions of this Act may apply to the Inspector to have the boiler registered. Every such application shall be accompanied by the prescribed fee.

(*2*) On receipt of an application under sub-section (*1*), the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed.

(*3*) On the said date the Inspector shall proceed to measure and examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used, and shall report the result of the examination to the Chief Inspector in the prescribed form.

(*4*) The Chief Inspector, on receipt of the report, may—

(*a*) register the boiler and assign a register number thereto either forthwith or after satisfying himself that any structural alteration, addition or renewal which he may deem necessary has been made in or to the boiler or any steam-pipe attached thereto, or

(*b*) refuse to register the boiler:

Provided that where the Chief Inspector refuses to register a boiler, he shall forthwith communicate his refusal to the owner of the boiler together with the reasons therefor.

(*5*) The Chief Inspector shall, on registering the boiler, order the issue to the owner of a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act.

(*6*) The Inspector shall forthwith convey to the owner of the boiler the orders of the Chief Inspector and shall in accordance therewith issue to the owner any certificate of which the issue has been ordered, and, where the boiler has been registered, the owner shall within the

prescribed period cause the register number to be permanently marked thereon in the prescribed manner.

Renewal of certificate.

8. (*1*) A certificate authorising the use of a boiler shall cease to be in force—

(*a*) on the expiry of the period for which it was granted; or

(*b*) when any accident occurs to the boiler; or

(*c*) when the boiler is moved, the boiler not being a vertical boiler the heating surface of which is less than two hundred square feet, or a portable or vehicular boiler; or

(*d*) when any structural alteration, addition or renewal is made in or to the boiler; or

(*e*) if the Chief Inspector in any particular case so directs, when any structural alteration, addition or renewal is made in or to any steam-pipe attached to the boiler; or

(*f*) on the communication to the owner of the boiler of an order of the Chief Inspector or Inspector prohibiting its use on the ground that it or any steam-pipe attached thereto is in a dangerous condition.

(*2*) Where an order is made under clause (*f*) of sub-section (*1*), the grounds on which the order is made shall be communicated to the owner with the order.

(*3*) When a certificate ceases to be in force, the owner of the boiler may apply to the Inspector for a renewal thereof for such period not exceeding twelve months as he may specify in the application.

(*4*) An application under sub-section (*3*) shall be accompanied by the prescribed fee and, on receipt thereof, the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed:

Provided that, where the certificate has ceased to be in force owing to the making of any structural alteration, addition or renewal, the Chief Inspector may dispense with the payment of any fee.

(*5*) On the said date the Inspector shall examine the boiler in the prescribed manner, and if he is satisfied that the boiler and the steam-pipe or steam-pipes attached thereto are in good condition shall issue a renewed certificate authorising the use of the boiler for such period not exceeding twelve months and at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act:

Provided that if the Inspector—

(*a*) proposes to issue any certificate—

(*i*) having validity for a less period than the period entered in the application, or

(*ii*) increasing or reducing the maximum pressure at which the boiler may be used, or

(*b*) proposes to order any structural alteration, addition or renewal to be made in or to the boiler or any steam-pipe attached thereto, or

(*c*) is of opinion that the boiler is not fit for use, the Inspector shall, within forty-eight hours of making the examination, inform the owner of the boiler in writing of his opinion and the reasons therefor, and shall forthwith report the case for orders to the Chief Inspector.

(*6*) The Chief Inspector, on receipt of a report under sub-section (*5*), may, subject to the provisions of this Act and of the regulations made hereunder, order the renewal of the certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it:

Provided that where the Chief Inspector refuses to renew a certificate, he shall forthwith communicate his refusal to the owner of the boiler, together with the reasons therefor.

(*7*) Nothing in this section shall be deemed to prevent an owner of a boiler from applying for a renewed certificate therefor at any time during the currency of a certificate.

Provisional orders.

9. Where the Inspector reports the case of any boiler to the Chief Inspector under sub-section (*3*) of section 7 or sub-section (*5*) of section 8, he may, if the boiler is not a boiler the use of which has been prohibited under clause (*f*) of sub-section (*1*) of section 8, grant to the owner thereof a provisional order in writing permitting the boiler to be used at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act pending the receipt of the orders of the Chief Inspector. Such provisional order shall cease to be in force—

(*a*) on the expiry of six months from the date on which it is granted, or

(*b*) on receipt of the orders of the Chief Inspector, or

(*c*) in any of the cases referred to in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of sub-section (*1*) of section 8,

and on so ceasing to be in force shall be surrendered to the Inspector.

Use of boiler pending grant of certificate.

10. (*1*) Notwithstanding anything hereinbefore contained, when the period of a certificate relating to a boiler has expired, the owner shall, provided that he has applied before the expiry of that period for a renewal of the certificate, be entitled to use the boiler at the maximum pressure entered in the former certificate pending the issue of orders on the application.

(*2*) Nothing in sub-section (*1*) shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (*b*), (*c*), (*d*), (*e*) and

(*f*) of sub-section (*1*) of section 8 occurring after the expiry of the period of the certificate.

Revocation of certificate or provisional order.

11. The Chief Inspector may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise—

(*a*) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination; or

(*b*) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition; or

(*c*) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, if the boiler is in charge of a person not holding the certificate required by such rules; or

(*d*) where no such rules have been made, if the boiler is in charge of a person who is not, having regard to the condition of the boiler, in the opinion of the Chief Inspector competent to have charge thereof:

Provided that where the Chief Inspector withdraws or revokes a certificate or provisional order on the ground specified in clause (*d*), he shall communicate to the owner of the boiler his reasons in writing for the withdrawal or revocation, and the order shall not take effect until the expiry of thirty days from the receipt of such communication.

Alterations and renewals to boilers.

12. No structural alteration, addition or renewal shall be made in or to any boiler registered under this Act unless such alteration, addition or renewal has been sanctioned in writing by the Chief Inspector.

Alterations and renewals to steam-pipes.

13. Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any steam-pipe attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention, and shall send therewith such particulars of the proposed alteration, addition or renewal as may be prescribed.

Duty of owner at examination.

14. (*1*) On any date fixed under this Act for the examination of a boiler, the owner thereof shall be bound—

(*a*) to afford to the Inspector all reasonable facilities for the examination and all such information as may reasonably be required of him;

(*b*) to have the boiler properly prepared and ready for examination in the prescribed manner; and

(*c*) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed.

(*2*) If the owner fails, without reasonable cause, to comply with the provisions of sub-section (*1*), the Inspector shall refuse to make the

examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require the owner to file a fresh application under section 7 or section 8, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 10.

Production of certificates, etc.

15. The owner of any boiler who holds a certificate or provisional order relating thereto shall, at all reasonable times during the period for which the certificate or order is in force, be bound to produce the same when called upon to do so by a District Magistrate, Commissioner of Police or Magistrate of the first class having jurisdiction in the area in which the boiler is for the time being, or by the Chief Inspector or by an Inspector or by any Inspector appointed under the [1]Indian Factories Act, 1911, or by any person specially authorised in writing by a District Magistrate or Commissioner of Police. XII of 1911.

Transfer of certificates, etc.

16. If any person becomes the owner of a boiler during the period for which a certificate or provisional order relating thereto is in force, the preceding owner shall be bound to make over to him the certificate or provisional order.

Powers of entry.

17. An Inspector may, for the purpose of inspecting or examining a boiler or any steam-pipe attached thereto or of seeing that any provision of this Act or of any regulation or rule made hereunder has been or is being observed, at all reasonable times enter any place or building within the limits of the area for which he has been appointed in which he has reason to believe that a boiler is in use.

Report of accidents.

18. (*1*) If any accident occurs to a boiler or steam-pipe, the owner or person in charge thereof shall, within twenty-four hours of the accident, report the same in writing to the Inspector. Every such report shall contain a true description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to the steam-pipe or to any person, and shall be in sufficient detail to enable the Inspector to judge of the gravity of the accident.

(*2*) Every person shall be bound to answer truly to the best of his knowledge and ability every question put to him in writing by the Inspector as to the cause, nature or extent of the accident.

Appeals to Chief Inspector.

19. Any person considering himself aggrieved by—

(*a*) an order made or purporting to be made by an Inspector in the exercise of any power conferred by or under this Act, or

(*b*) a refusal of an Inspector to make any order or to issue any certificate which he is required or enabled by or under this Act to make or issue,

may, within thirty days from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Inspector.

[1] General Acts, Vol. VII.

20. Any person considering himself aggrieved by an original or appellate order of the Chief Inspector— Appeals to appellate authority.

(*a*) refusing to register a boiler or to grant or renew a certificate in respect of a boiler; or

(*b*) refusing to grant a certificate having validity for the full period applied for; or

(*c*) refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired; or

(*d*) withdrawing or revoking a certificate or provisional order; or

(*e*) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted; or

(*f*) ordering any structural alteration, addition or renewal to be made in or to a boiler or steam-pipe or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler,

may, within thirty days of the communication to him of such order, lodge with the Chief Inspector an appeal to an appellate authority to be constituted by the Local Government under this Act.

21. An order of an appellate authority under section 20 and, save as otherwise provided in sections 19 and 20, an order of the Chief Inspector or of an Inspector shall be final and shall not be called in question in any Court. Finality of orders.

22. Any owner of a boiler who refuses or without reasonable excuse neglects— Minor penalties.

(*i*) to surrender a provisional order as required by section 9, or

(*ii*) to produce a certificate or provisional order when duly called upon to do so under section 15, or

(*iii*) to make over to the new owner of a boiler a certificate or provisional order as required by section 16,

shall be punishable with fine which may extend to one hundred rupees.

23. Any owner of a boiler who, in any case in which a certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for each day after the first day in regard to which he is convicted of having persisted in the offence. Penalties for illegal use of boiler.

24. Any person who— Other penalties.

(*a*) uses or permits to be used a boiler of which he is the owner and which has been transferred from one province to another

without such transfer having been reported as required by section 6, or

(*b*) being the owner of a boiler fails to cause the registered number allotted to the boiler under this Act to be marked on the boiler as required by sub-section (*6*) of section 7, or

(*c*) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of the Chief Inspector when so required by section 12, or to a steam-pipe without first informing the Chief Inspector, when so required by section 13, or

(*d*) fails to report an accident to a boiler or steam-pipe when so required by section 18, or

(*e*) tampers with a safety valve of a boiler so as to render it inoperative at the maximum pressure at which the use of the boiler is authorised under this Act,

shall be punishable with fine which may extend to five hundred rupees.

Penalty for tampering with register mark.

25. (*1*) Whoever removes, alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or any Act repealed hereby, shall be punishable with fine which may extend to five hundred rupees.

(*2*) Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or any Act repealed hereby, shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Limitation and previous sanction for prosecutions.

26. No prosecution for an offence made punishable by or under this Act shall be instituted except within six months from the date of the commission of the offence, and no such prosecution shall be instituted without the previous sanction of the Chief Inspector.

Trial of offences.

27. No offence made punishable by or under this Act shall be tried by a Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.

Power to make regulations.

28. The Governor General in Council may, by notification in the Gazette of India, make regulations consistent with this Act for all or any of the following purposes, namely:—

(*a*) for laying down the standard conditions in respect of material, design and construction which shall be required for the purpose of enabling the registration and certification of a boiler under this Act;

(*b*) for prescribing the method of determining the maximum pressure at which a boiler may be used;

(*c*) for regulating the registration of boilers, prescribing the fees payable therefor, the drawings, specifications, certificates

and particulars to be produced by the owner, the method of preparing a boiler for examination, the form of the Inspector's report thereon, the method of marking the register number, and the period within which such number is to be marked on the boiler;

(*d*) for regulating the inspection and examination of boilers and steam-pipes, and prescribing forms of certificates therefor;

(*e*) for ensuring the safety of persons working inside a boiler, and

(*f*) for providing for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power to make rules.

29. The Local Government may, by notification in the local official Gazette, make rules consistent with this Act and the regulations made thereunder for all or any of the following purposes, namely:—

(*a*) for prescribing the qualifications and duties of the Chief Inspector and of Inspectors, for regulating their salary, allowances and conditions of service, for prescribing or constituting authorities to which they shall respectively be subordinate, and the limits of the administrative control to be exercised by such authorities;

(*b*) for regulating the transfer of boilers;

(*c*) for providing for the registration and certification of boilers in accordance with the regulations made under this Act;

(*d*) for requiring boilers to be in charge of persons holding certificates of competency, and for prescribing the conditions on which such certificates may be granted;

(*e*) for prescribing the times within which Inspectors shall be required to examine boilers under section 7 or section 8;

(*f*) for prescribing the fees payable for the issue of renewed certificates and the method of determining the amount of such fees in each case;

(*g*) for regulating inquiries into accidents;

(*h*) for constituting the appellate authority referred to in section 20, and for determining its powers and procedure;

(*i*) for determining the mode of disposal of fees, costs and penalties levied under this Act; and

(*j*) generally to provide for any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province:

Provided that the previous sanction of the Governor General in Council shall be required to the making of any rule under clause (*j*).

Penalty for breach of rules.

30. Any regulation or rule made under section 28 or section 29 may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

Publication of regulations and rules.

31. (*1*) The power to make regulations and rules conferred by sections 28 and 29 shall be subject to the condition of the regulations and rules being made after previous publication.

(*2*) Regulations and rules so made shall be published in the Gazette of India and the local official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

Recovery of fees, etc.

32. All fees, costs and penalties levied under this Act shall be recoverable as arrears of land-revenue.

Applicability to the Crown.

33. Save as otherwise expressly provided, this Act shall apply to boilers and steam-pipes belonging to the Crown.

Power to suspend in case of emergency.

34. In case of any emergency, the Local Government may, by general or special order in writing, exempt any boiler or steam-pipe from the operation of all or any of the provisions of this Act.

Repeal of enactments.

35. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof:

Provided that any Chief Inspector or Inspector appointed under any Act so repealed shall be deemed to have been appointed under this Act.

THE SCHEDULE.

(*See section 35.*)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
		Acts of the Governor General in Council.	
1903	I	The Amending Act, 1903 .	So much of the First Schedule as relates to the Bengal Steam-boilers and Prime-movers Act, 1879.
1907	II	The Central Provinces Boiler Inspection Act, 1907.	The whole.
1920	XXX-VIII	The Devolution Act, 1920	So much of the First Schedule as relates to the Bengal Steam-boilers and Prime-movers Act, 1879.

THE SCHEDULE—*contd.*

Year.	No.	Short title.	Extent of repeal.
		Madras Acts.	
1893	III	The Madras Steam-boilers and Prime-movers Act, 1893.	The whole.
1904	I	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1904.	The whole.
1909	VII	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1909.	The whole.
		Bombay Acts.	
1917	V	The Bombay Boiler Inspection Act, 1917.	The whole.
1920	X	The Bombay Boiler Inspection (Amendment) Act, 1920.	The whole.
		Bengal Acts.	
1879	III	The Bengal Steam-boilers and Prime-movers Act, 1879.	The whole.
1915	II	The Bengal Steam-boilers and Prime-movers (Amendment) Act, 1915.	The whole
		United Provinces Act.	
1915	III	The United Provinces Steam-boilers Act, 1915.	The whole.
		Punjab Act.	
1902	II	The Punjab Steam-boilers and Prime-movers Act, 1902.	The whole.
		Central Provinces Act.	
1919	IV	The Central Provinces Boiler Inspection (Amendment) Act, 1919.	The whole.
		Burma Act.	
1910	II	The Burma Steam-boilers and Prime-movers Act, 1910.	The whole.

ACT No. VI OF 1923.[1]

[*5th March, 1923.*]

An Act further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments.

WHEREAS it is expedient further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Cantonments (House-Accommodation) Act, 1923.

(*2*) It extends to the whole of British India (inclusive of British Baluchistan) except Aden.

(*3*) It shall come into force on the first day of April, 1923, but it shall not become operative in any cantonment or part of a cantonment until the issue, or otherwise than in pursuance, of a notification as hereinafter provided by section 3:

Provided that any notification made under section 3 of the Cantonments (House-Accommodation) Act, 1902, which is in force at the commencement of this Act, shall be deemed to be a notification made under section 3 of this Act. II of 1902.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Brigade area" means one of the Brigade areas, whether occupied by a brigade or not, into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Brigade area for all or any of the purposes of this Act;

(*b*) "Cantonment Authority" means a Cantonment Committee, or, in the case of a cantonment for which such a Committee has not been constituted or has ceased to exist or cannot be convened, the Commanding Officer of the cantonment;

(*c*) "Command" means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may,

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 233; and for Report of Joint Committee, *see ibid*, 1923, Pt. V, p. 5.

by notification in the Gazette of India, declare to be a Command for all or any of the purposes of this Act;

(*d*) "Commanding Officer of the cantonment" means the officer for the time being in command of the forces in a cantonment;

(*e*) "District" means one of the Districts into which India is for military purposes for the time being divided; it includes a Brigade area which does not form part of any such District and any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a District for all or any of the purposes of this Act;

(*f*) "house" means a house suitable for occupation by a military officer or a military mess, and includes the land and buildings appurtenant to a house;

(*g*) "military officer" means a commissioned or warrant officer of His Majesty's military or air forces on military or air-force duty in a cantonment, and includes a Chaplain on duty with troops in a cantonment, a Cantonment Magistrate and any person in Army departmental employment whom the Officer Commanding the District may at any time, by an order in writing, place on the same footing as a military officer for the purposes of this Act;

(*h*) "owner" includes the person who is receiving, or is entitled to receive, the rent of a house, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent, or be entitled to receive it, if the house were let to a tenant; and

(*i*) a house is said to be in a state of reasonable repair when—

(*i*) all floors, walls, pillars and arches are sound and all roofs sound and watertight,

(*ii*) all doors and windows are intact, properly painted or oiled, and provided with proper locks or bolts or other secure fastenings, and

(*iii*) all rooms, out-houses and other appurtenant buildings are properly colour-washed or white-washed.

(*2*) If any question arises whether any land or building is appurtenant to a house, it shall be decided by the Commanding Officer of the cantonment, whose decision thereon shall, subject to revision by the District Magistrate, be final.

CHAPTER II.

Application of Act.

Cantonments or parts of cantonments

3. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official

in which Act to be operative.

Gazette, declare this Act to be operative in any cantonment or part of a cantonment situate in the Province, other than a cantonment situate within the limits of a presidency-town.

(*2*) Before issuing a notification under sub-section (*1*) in respect of any cantonment or part of a cantonment, the Local Government shall cause local inquiry to be made with a view to determining whether it is expedient to issue such notification, and what portion (if any) of the area proposed to be included therein should be excluded therefrom.

Saving of written instruments.

4. Nothing in this Act shall affect the provisions of any written instrument executed by or on behalf of the East India Company or the Government, unless the other party entitled and the Secretary of State for India in Council consent in writing to be bound by the terms of this Act.

CHAPTER III.

Appropriation of Houses.

Liability of houses to appropriation.

5. Every house situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (*1*) of section 3 is for the time being in force shall be liable to appropriation by the Government on a lease in the manner and subject to the conditions hereinafter provided.

Inspection of house required for occupation by the military.

6. (*1*) Where the Commanding Officer of the cantonment considers that the liability imposed by section 5 should be enforced in respect of any house, he shall serve a notice on the owner of the house requiring him to permit the house to be inspected, measured and surveyed by such person and on such day, not being less than three days from the service of the notice, and at such time as may be specified in the notice.

(*2*) On the day and at the time so specified, the owner shall be bound to afford all reasonable facilities to the person specified in the notice for the purpose of the inspection, measurement and survey of the house, and, if he refuses or neglects to do so, the said person may, subject to rules made under this Act, enter on the premises and do all such things as may be reasonably necessary for the said purpose.

Procedure for taking house on lease.

7. (*1*) If, on the report of such person as aforesaid, the Commanding Officer of the cantonment is satisfied that the house is suitable for occupation by a military officer or a military mess, he may, with the previous sanction of the Officer Commanding the District, by notice—

(*a*) require the owner to execute a lease of the house to the Government for a specified period which shall not be less than five years;

(*b*) require the existing occupier, if any, to vacate the house; and

(*c*) require the owner to execute within such time as may be specified in the notice such repairs as may, in the opinion of the Commanding Officer of the cantonment, be necessary for the purpose of putting the house into a state of reasonable repair.

(*2*) Every notice issued under sub-section (*1*) shall state the amount of the annual rent proposed as reasonable for the house, calculated on the assumption that the owner will carry out the required repairs, if any. It shall also contain an estimate of the cost of such repairs.

(*3*) The following shall be deemed to be conditions of every lease executed under sub-section (*1*), namely:—

(*a*) that the house shall, on the expiration of the lease, be redelivered to the owner in a state of reasonable repair, and

(*b*) that the grounds and the garden, if any, appertaining to the house shall be maintained in the condition in which they are at the time at which the lease is executed.

Procedure to be observed before taking a house on lease.

8. The Officer Commanding the District shall not sanction the issue of any notice under section 7 unless he is satisfied—

(*i*) that the house in respect of which it is proposed to issue the notice is suitable for occupation by a military officer or a military mess, and

(*ii*) that there is not in the cantonment or, if this Act is in force in a part only of the cantonment, then in that part thereof, a sufficient number of houses already available and suitable for occupation by military officers or military messes whose accommodation in the cantonment, or a part thereof, as the case may be, is in his opinion necessary or expedient.

Sanction to be obtained before a house is occupied as a hospital, etc.

9. No house in any cantonment or part of a cantonment in which this Act is operative shall, unless it was so occupied at the date of the issue of the notification declaring this Act or the Cantonments (House-Accommodation) Act, 1902, as the case may be, to be operative, be occupied for the purposes of a hospital, school, school hostel, bank, hotel, or shop, or by a railway administration, a company or firm engaged in trade or business or a club, without the previous sanction of the Officer Commanding the District given with the concurrence of the Commissioner or, in a province where there are no Commissioners, of the Collector.

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Houses not to be appropriated in certain cases.

10. No notice shall be issued under section 7 if the house—

(*a*) was, at the date of the issue of the notification declaring this Act or the Cantonments (House-Accommodation) Act, 1902, as the case may be, to be operative in the cantonment or part of the cantonment, or is, with such sanction as is

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required by section 9, occupied as a hospital, school, school hostel, bank, hotel or shop, and has been so occupied continuously during the three years immediately preceding the time when the occasion for issuing the notice arises, or

(*b*) was, at the date of such a notification as is referred to in clause (*a*), or is, with such sanction as aforesaid, occupied by a railway administration or by a company or firm engaged in trade or business or by a club, or

(*c*) is occupied by the owner, or

(*d*) has been appropriated by the Local Government with the concurrence of the Officer Commanding the District, or by the Governor General in Council, for use as a public office or for any other purpose.

Time to be allowed for giving possession of house.

11. (*1*) If a house is unoccupied, a notice issued under section 7 may require the owner to give possession of the same to the Commanding Officer of the cantonment within twenty-one days from the service of the notice.

(*2*) If a house is occupied, a notice issued under section 7 shall not require its vacation in less than thirty days from the service of the notice.

(*3*) Where a notice has been issued under section 7 and the house has been vacated in pursuance thereof, the lease shall be deemed to have commenced on the date on which the house was so vacated.

Surrender of house when to be enforced.

12. If the owner fails to give possession of a house to the Commanding Officer of the cantonment in pursuance of a notice issued under section 7, or if the existing occupier fails to vacate a house in pursuance of such a notice, the District Magistrate, by himself or by another person generally or specially authorised by him in this behalf, shall enter on the premises and enforce the surrender of the house.

Option in certain cases for owner on whom notice is issued under section 7 to call upon the Government to purchase.

13. (*1*) If a house, in respect of which a notice is issued under section 7, is shown to the satisfaction of the Local Government, or is proved by a decree or order of a Court of competent jurisdiction, to have been erected—

(*a*) under any conditions, rules, regulations or orders which were in force in Bengal prior to the eighth day of December, 1864, and conferred on the owner the option of offering the house for sale to the military officer applying for its appropriation for his occupation or to the East India Company or the Government, or

(*b*) under any conditions, rules, regulations or orders which were in force in Bombay prior to the first day of June, 1875, and conferred such an option as is described in clause (*a*),

then the owner shall have the option of either complying with the notice or offering the house for sale to the Government.

(2) If the owner elects to sell the house, and the Government is willing to purchase it, the question of the amount of the purchase-money to be paid shall, in the event of disagreement, be referred to a Committee of Arbitration.

Provision where house is held on long lease by a tenant.

14. (1) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, the Secretary of State for India in Council shall, for the term of one year from the date on which the house is vacated in pursuance of the notice, or for the unexpired term of the lease whichever is the shorter, be liable to the owner for the rent fixed by the registered lease instead of for the rent payable under this Act if the rent so fixed exceeds the rent so payable.

(2) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease from year to year, the Secretary of State for India in Council shall be liable as aforesaid for the term of six months from the date on which the house is vacated in pursuance of the notice.

(3) Nothing in this section shall be deemed—

(a) to render the said Secretary of State in Council so liable unless an application in writing in this behalf is made by the owner to the Commanding Officer of the cantonment within fifteen days from the service of the notice; or

(b) to limit or otherwise affect any agreement between the said Secretary of State in Council and the owner.

Power for owner to require reference to arbitration on question of rent.

15. (1) If the owner considers that the rent stated in a notice issued under section 7 is not reasonable, he may, within a period of fifteen days from the service of such notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

(2) If the owner does not make such a requisition within the said period, he shall be deemed to have accepted the rent so offered.

Power for owner to require reference to arbitration on question of repairs.

16. (1) If the owner fails to execute any repairs to a house as required by a notice issued to him under section 7, the Commanding Officer of the cantonment may by notice require the owner to execute the repairs within such period, not being less than fifteen days, as may be specified in the notice.

(2) If the owner objects to any requisition contained in a notice issued under sub-section (1), he may, within fifteen days from the service of the notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

Power to have repairs executed and recover cost.

17. Where—

(*a*) the owner fails to comply with a notice issued under sub-section (*1*) of section 16 and has not, within fifteen days from the service of such notice, required that the matter be referred to a Committee of Arbitration, or

(*b*) a Committee of Arbitration decides that repairs are necessary and the extent to which they are necessary, and specifies the period within which they are to be executed, and the owner fails to execute them within such period, and has not within one month from the date of the decision appealed therefrom to the Civil Court as hereinafter provided, or

(*c*) the owner fails to execute within such period as may be specified by the Civil Court hearing such appeal such repairs as the Court may decide to be necessary,

the Military Works Services or the Public Works Department shall, on the application of the Commanding Officer of the cantonment, cause the repairs specified in the notice or, if the matter has been referred to a Committee of Arbitration, in the decision of the Committee or the Civil Court, as the case may be, to be executed at the expense of the Government, and the cost thereof may be deducted from the rent payable to the owner.

Notice to be given of devolution of interest in house in cantonment.

18. Every person on whom devolves, by transfer, by succession or by operation of law, the interest of an owner in any house, or in any part of any house, situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (*1*) of section 3 is for the time being in force, shall be bound to give notice of the fact to the Commanding Officer of the cantonment within one month from the date of such devolution, and, if he, without reasonable cause, fails to do so, he shall be punishable with fine which may extend to fifty rupees.

CHAPTER IV.

Committees of Arbitration.

Convening of Committees of Arbitration in cases falling under sub-section (*2*) of section 13.

19. In the event of any disagreement as to the amount of the purchase-money of a house to be sold under sub-section (*2*) of section 13, the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration to determine it.

Convening of Committees of Arbitration

20. Where a requisition is made to the Commanding Officer of the cantonment by an owner under section 15 or section 16, the Command-

ing Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration— on requisition of owners.

(*a*) to determine the amount of the rent to be paid, or

(*b*) to determine whether any, and (if any) what, repairs are necessary, the extent to which they are necessary, and the period within which they are to be executed, or

(*c*) otherwise to determine the question in dispute.

21. (*1*) Where a Committee of Arbitration is to be convened, the Commanding Officer of the cantonment shall forthwith cause an order to be published in Station Orders stating the matter to be determined. Procedure for convening Committees of Arbitration generally.

(*2*) The Commanding Officer of the cantonment shall forthwith send a copy of such order to the District Magistrate and to the parties concerned, and, as soon as may be, shall by notice call upon the owner concerned to make, and shall himself make, nominations in accordance with the provisions of sections 22 and 23.

22. (*1*) Every Committee of Arbitration shall consist of five members, namely:— Constitution of Committee of Arbitration.

(*a*) two members nominated by the Commanding Officer of the cantonment, one of whom shall, if possible, be an officer of the Military Works Services or of the Public Works Department;

(*b*) two members nominated by the owner concerned, who shall be persons liable to pay taxes in the cantonment and ordinarily resident therein or in the immediate vicinity thereof; and

(*c*) a chairman who shall be a person not in the service of the Government or the Cantonment Authority and not having any interest in house-property in the cantonment which has been appropriated or is liable to appropriation under this Act, and who shall be nominated by the Commanding Officer of the cantonment.

(*2*) If the Commanding Officer of the cantonment or the owner concerned fails without reasonable cause to nominate, within seven days from the date on which the owner has been called upon to make nominations under section 21, any member whom he is entitled to nominate under sub-section (*1*) or if any member who has been nominated neglects or refuses to act and the person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members to fill the vacancy or vacancies.

Members of Committees of Arbitration to be persons who have no direct interest and whose services are immediately available.

23. (*1*) No person who has a direct interest in the matter under reference or whose services are not immediately available for the purposes of the Committee shall be nominated a member of a Committee of Arbitration.

(*2*) If, in the opinion of the District Magistrate, any person who has been nominated has a direct interest in the matter under reference, or is otherwise disqualified for nomination, or if the services of any such person are not immediately available as aforesaid, and if the person by whom any such person was nominated fails to nominate another member within seven days from the date on which he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 22.

Meetings and powers of Committees of Arbitration.

24. (*1*) When a Committee of Arbitration has been duly constituted, the Commanding Officer of the cantonment shall by notice inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

(*2*) The Committee shall receive and record evidence and shall have power to administer oaths to witnesses, and the District Magistrate, on requisition in writing signed by the Chairman of the Committee, shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself.

Powers of Chairman of Committee of Arbitration as to meetings.

25. The Chairman of the Committee of Arbitration shall fix the time and place of meeting, and shall have power to adjourn the meeting from time to time as may be necessary.

Calculation of amount of purchase-money by Committees of Arbitration.

26. In determining the amount of the purchase-money to be paid for a house to be sold under sub-section (*2*) of section 13, the Committee of Arbitration shall estimate the market value of the house at the date on which the notice was served on the owner under section 7.

Calculation of rent by Committees of Arbitration.

27. In determining the amount of rent to be paid for a house, the Committee of Arbitration shall estimate the market value of the house at the date on which the notice was served on the owner under section 7, and shall fix the annual rent at such percentage on that value as is for the time being recoverable by way of annual rent on the market-value of similar houses in the cantonment:

Provided that due allowance shall be made in respect of the cost to the lessee of maintaining the house in a state of reasonable repair during the period of the lease.

Decisions of Committees of Arbitration.

28. (*1*) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the chairman and at least three of the other members are present.

(*2*) If there is not a majority of votes in favour of any proposed decision, the opinion of the chairman shall prevail.

(*3*) Save as provided in this Act, the decision of a Committee of Arbitration shall be final and shall not be questioned in any Court.

CHAPTER V.

APPEALS.

Appeal to Civil Court.

29. (*1*) If the Commanding Officer of the cantonment, or the owner of a house in respect of which any matter has been referred to a Committee of Arbitration, is dissatisfied with any decision of the Committee of Arbitration, he may, within one month from the date of such decision, appeal to the principal Civil Court having ordinary original civil jurisdiction in the cantonment, and the decision of such Court shall be final.

(*2*) A Civil Court hearing an appeal under this section shall, so far as may be, follow the same procedure and have the same powers as it follows and has when hearing an appeal under the [1]Code of Civil Procedure, 1908.

V of 1908.

Appeal to military authorities.

30. (*1*) The owner or any tenant of a house in respect of which a notice has been issued under section 7 may appeal to the Officer Commanding the District or, if that officer is the Commanding Officer of the cantonment, to the General Officer Commanding-in-Chief, the Command, against the decision of the Commanding Officer of the cantonment to appropriate the house.

(*2*) No such appeal shall be admitted unless made within a period of twenty-one days from the service of the notice aforesaid, and such period shall be computed in accordance with the provisions of the [1]Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder.

IX of 1908.

Petition of appeal.

31. (*1*) Every petition of appeal under section 30 shall be in writing and accompanied by a copy of the notice appealed against.

(*2*) Any such petition may be presented to the Commanding Officer of the cantonment, and that officer shall be bound to forward it to the authority empowered by section 30 to hear the appeal, and may attach thereto any report which he may desire to make in explanation of the notice appealed against.

(*3*) If any such petition is presented direct to the Officer Commanding the District and an immediate order on the petition is not necessary,

[1] General Acts, Vol. VI.

the Officer Commanding the District may refer the petition to the Commanding Officer of the cantonment for report.

Order in appeal final.

32. The decision on any such appeal of the Officer Commanding the District or of the General Officer Commanding-in-Chief, the Command, as the case may be, shall be final, and shall not be questioned in any Court otherwise than on the ground that the house is situate in a cantonment, or part of a cantonment in which this Act is not operative:

Provided that no appeal shall be decided until the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.

Suspension of action pending appeal.

33. Where an appeal has been presented under section 30 within the period prescribed by sub-section (*2*) of that section, all action on the notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Service of notice and requisitions.

34. Every notice or requisition prescribed by this Act shall be in writing, signed by the person by whom it is given or made or by his duly appointed agent, and may be served by post on the person to whom it is addressed, or, in the case of an owner who does not reside in or near the cantonment, on his agent appointed under the [1]Cantonments Act, 1910, XV of 1910, or any rule made thereunder.

Power for Governor General in Council to make rules.

35. (*1*) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) regulate the procedure of Committees of Arbitration; and

(*b*) define the powers of entry, inspection, measurement or survey which may be exercised in carrying out the purposes and objects of this Act or of any rule made hereunder.

Further provisions respecting rules.

36. (*1*) The power to make rules under section 35 shall be subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner (if any) as the Governor General in Council may direct.

(2) Any rule under section 35 may be general for all cantonments or parts of cantonments in British India in which this Act is for the time being operative, or may be special for any of such cantonments or parts as the Governor General in Council may direct.

[1] General Acts, Vol. VII.

(*3*) A copy of the rules under section 35 for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Authority.

(*4*) In making any rule under clause (*b*) of sub-section (*2*) of section 35, the Governor General in Council may direct that whoever obstructs any person, not being a public servant within the meaning of section 21 of the [1]Indian Penal Code, in making any entry, inspection, measurement or survey, shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, with fine which, in addition to such fine as aforesaid, may extend to five rupees for every day after the first during which such offence continues.

XLV of 1860.

37. No Judge or Magistrate shall be deemed, within the meaning of section 556 of the [2]Code of Criminal Procedure, 1898, to be a party to, or personally interested in, any prosecution for an offence constituted by or under this Act merely because he is a member of the Cantonment Committee or has ordered or approved the prosecution. Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences.

V of 1898.

38. No suit or other legal proceeding shall lie against any person for anything in good faith done, or intended to be done, under this Act or in pursuance of any lawful notice or order issued under this Act. Protection to persons acting under Act.

39. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof. Repeals.

THE SCHEDULE.

[ENACTMENTS REPEALED.]

(*See section 39.*)

Year.	No.	Short title.	Extent of repeal.
1902	II	The Cantonments (House-Accommodation) Act, 1902.	The whole.
1909	V	The Amending (Army) Act, 1909.	So much as has not been repealed.
1914	IV	The Decentralization Act, 1914.	So much of the Schedule as relates to the Cantonments (House-Accommodation) Act, 1902.

[1] General Acts, Vol. I.
[2] General Acts, Vol. V.

ACT No. VII OF 1923.[1]

[*5th March, 1923.*]

An Act to give effect in British India to the Treaty for the Limitation of Naval Armament.

WHEREAS it is expedient to give effect in British India to the Treaty for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February, 1922; It is hereby enacted as follows:—

Short title, extent, and commencement.

1. (*1*) This Act may be called the Indian Naval Armament Act, 1923.

(*2*) It extends to the whole of British India, and applies also to all subjects and servants of His Majesty in other parts of India.

(*3*) It shall come into force on such [2]date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " competent Court " means the High Court or such other Court having unlimited original civil jurisdiction as the Governor General in Council may declare to be a competent Court for the purposes of this Act;

(*b*) " ship " means any boat, vessel, battery or craft, whether wholly or partly constructed, which is intended to float or is capable of floating, on water, and includes all equipment belonging to any ship; and

(*c*) " the Treaty " means those Articles of the Treaty for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February, 1922, which are set out in the Schedule.

Restriction on building or equipping vessels of war.

3. No person shall, except under and in accordance with the conditions of a licence granted under this Act,—

(*a*) build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war; or

(*b*) despatch or deliver, or allow to be despatched or delivered, from any place in British India any ship which has been, either wholly or partly, built, altered, armed or equipped as a vessel of war in any part of His Majesty's Dominions or in a State in India otherwise than under and in accordance with any law for the time being in force in that part or State.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 348.

[2] This Act was brought into force from 10th November, 1923—*Vide* Notification No. 49, dated the 9th November 1923, Gazette of India, 1923, Pt. I, p. 1617.

Licences.

4. (*1*) A licence under this Act for any of the purposes specified in section 3 may be granted by the Local Government, and shall not be refused unless it appears to the Local Government that such refusal is necessary for the purpose of securing the observance of the obligations imposed by the Treaty; and, where a licence is granted subject to conditions, the conditions shall be such only as the Local Government may think necessary for the purpose aforesaid.

(*2*) An application for a licence under this section shall be in such form and shall be accompanied by such designs and particulars as the Local Government may, by general or special order, require.

Offences against the Act.

5. (*1*) If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(*2*) Where an offence punishable under sub-section (*1*) has been committed by a company or corporation, every director and manager of such company or corporation shall be punishable thereunder unless he proves that the act constituting the offence took place without his knowledge and consent.

(*3*) Nothing contained in section 517 or section 518 or section 520 of the [1]Code of Criminal Procedure, 1898, shall be deemed to authorise the destruction or confiscation under the order of any Criminal Court of any ship which is liable to forfeiture under this Act or of any part of such ship.

V of 1898.

Liability of ships to forfeiture.

6. Any ship which has been, either wholly or partly, built, altered, armed, or equipped as a vessel of war in British India in contravention of section 3, or in any other part of His Majesty's Dominions or any State in India in contravention of any like provision of law in force in that part or State, shall, if found in British India, be liable to forfeiture under this Act.

Seizure, detention and search of ships.

7. (*1*) Where a ship is liable to forfeiture under this Act,—

(*a*) any Presidency Magistrate or Magistrate of the first class, or

(*b*) any commissioned officer on full pay in the military, naval or air service of His Majesty, or any gazetted officer of the Royal Indian Marine Service, or

(*c*) any officer of customs or police-officer not below such rank as may be designated in this behalf by the Governor General in Council,

may seize such ship and detain it, and, if the ship is found at sea within the territorial waters of British India, may bring it to any convenient port in British India.

[1] General Acts, Vol. V.

(*2*) Any officer taking any action under sub-section (*1*) shall forthwith report the same through his official superiors to the Local Government.

(*3*) The Local Government shall, within thirty days of the seizure, either cause the ship to be released or make or cause to be made, in the manner hereinafter provided, an application for the forfeiture thereof, and may make such orders for the temporary disposal of the ship as it thinks suitable.

Procedure in forfeiture of ships.

8. (*1*) An application for the forfeiture of a ship under this Act may be made by, or under authority from, the Local Government to any competent Court within the local limits of whose jurisdiction the ship is for the time being.

(*2*) On receipt of any such application, the Court shall cause notice thereof and of the date fixed for the hearing of the application to be served upon all persons appearing to it to have an interest in the ship, and may give such directions for the temporary disposal of the ship as it thinks fit.

(*3*) For the purpose of disposing of an application under this section, the Court shall have the same powers and follow, as nearly as may be, the same procedure as it respectively has and follows for the purpose of the trial of suits under the [1]Code of Civil Procedure, 1908, and any order made by the Court under this section shall be deemed to be a decree, and the provisions of the said Code in regard to the execution of decrees shall, as far as they are applicable, apply accordingly. V of 1908.

(*4*) Where the Court is satisfied that the ship is liable to forfeiture under this Act, it shall pass an order forfeiting the ship to His Majesty:

Provided that, where any person having an interest in the ship proves to the satisfaction of the Court that he has not abetted, or connived at, or by his negligence facilitated, in any way, a contravention of section 3 in respect of the ship, and such ship has not been built as a vessel of war, it may pass such other order as it thinks fit in respect of the ship or, if it be sold, of the sale proceeds thereof:

Provided, further, that in no case shall any ship which has been altered, armed or equipped as a vessel of war be released until it has been restored, to the satisfaction of the Local Government, to such condition as not to render it liable to forfeiture under this Act.

(*5*) The Local Government or any person aggrieved by any order of a Court, other than a High Court, under this section may, within three months of the date of such order, appeal to the High Court.

[1] General Acts, Vol. VI.

Disposal of forfeit.

9. Where a ship has been forfeited to His Majesty under section 8, it may be disposed of in such manner as the Local Government, subject to the control of the Governor General in Council, directs:

Provided that, where the ship is sold under this section, due regard shall be had to the obligations imposed by the Treaty.

Special proof of relevant facts.

10. If, in any trial, appeal or other proceeding under the foregoing provisions of this Act, any question arises as to whether a ship is a vessel of war, or whether any alteration, arming or equipping of a ship is such as to adapt it for use as a vessel of war, the question shall be referred to and determined by the Governor General in Council, whose decision shall be final and shall not be questioned in any Court.

Penalties for proceeding to sea after seizure.

11. (*1*) Where a ship which has been seized or detained under section 7 or section 8 and has not been released by competent authority under this Act proceeds to sea, the master of the ship shall be punishable with fine which may extend to one thousand rupees, and the owner and any person who sends the ship to sea shall be likewise so punishable unless such owner or person proves that the offence was committed without his knowledge and consent.

(*2*) Where any ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer empowered by this Act to seize and detain the ship, the owner and master shall further each be liable, on the order of the Court trying an offence punishable under sub-section (*1*), to pay all the expenses of and incidental to such officer being taken to sea, and shall further be punishable with fine which may extend to one hundred rupees for every day until such officer returns or until such time as would enable him after leaving the ship to return to the port from which he was taken.

(*3*) Any expenses ordered to be paid under sub-section (2) may be recovered in the manner provided in the [1]Code of Criminal Procedure, 1898, for the recovery of a fine.

V of 1898.

Power to enter dockyards, etc.

12. (*1*) Any person empowered by this Act to seize and detain any ship may, at any reasonable time by day or night, enter any dockyard, shipyard or other place and make inquiries respecting any ship which he has reason to believe is liable to forfeiture under this Act, and may search such ship with a view to ascertaining whether the provisions of this Act have been or are being duly observed in respect thereof, and every person in charge of or employed in such place shall on request be bound to give the person so empowered all reasonable facilities for such entry and search and for making such inquiries.

(*2*) The provisions of sections 101, 102 and 103 of the [1]Code of Criminal Procedure, 1898, shall apply in the case of all searches made under this section.

V of 1898.

[1] General Acts, Vol. V.

Courts by which and conditions subject to which offences may be tried.

13. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall proceed to the trial of any offence punishable under this Act, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the Local Government.

Indemnity.

14. No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

THE SCHEDULE.

(*See section 2.*)

ARTICLES OF TREATY FOR THE LIMITATION OF NAVAL ARMAMENT.

ARTICLE V.

No capital ship exceeding 35,000 tons (35,560 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

ARTICLE VI.

No capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (406 millimetres).

ARTICLE IX.

No aircraft carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

* * * * * *

ARTICLE X.

No aircraft carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX, if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed ten. If alternatively the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited. In either case the number of anti-aircraft guns and of guns not exceeding 5 inches (127 millimetres) is not limited.

ARTICLE XI.

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. Vessels not specifically built as fighting ships nor taken in time of peace under Government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this Article.

ARTICLE XII.

No vessel of war of any of the Contracting Powers, hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres).

ARTICLE XIV.

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6-inch (152 millimetres) calibre.

ARTICLE XV.

No vessel o nstructed within the jurisdiction of any of the Contracting Powers for a non-Contracting Power shall exceed the limitations as to displacement and armament prescribed by the present Treaty for vessels of a similar type which may be constructed by or for any of the Contracting Powers, provided, however, that the displacement for aircraft carriers constructed for a non-Contracting Power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement.

ARTICLE XVI.

If the construction of any vessel of war for a non-Contracting Power is undertaken within the jurisdiction of any of the Contracting Powers, such Power shall promptly inform the other Contracting Powers of the date of the signing of the contract and the date on which the keel of the ship is laid; and shall also communicate to them the particulars relating to the ship prescribed in Chapter II, Part 3, section 1 (*b*), (4) and (5).

ARTICLE XVIII.

Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the navy of any foreign Power.

CHAPTER II.—PART 3.—SECTION 1.

(*b*) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information:—

* * * * * *

(4) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement.

(5) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement, at time of completion.

PART 4.—DEFINITIONS.

For the purposes of the present Treaty, the following expressions are to be understood in the sense defined in this Part.

Capital Ship.

A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft carrier, whose displacement exceeds 10,000 tons (10,160 metric tons) standard displacement, or which carries a gun with a calibre exceeding 8 inches (203 millimetres).

Aircraft Carrier.

An aircraft carrier is defined as a vessel of war with a displacement in excess of 10,000 tons (10,160 metric tons) standard displacement designed for the specific and exclusive purpose of carrying aircraft. It must be so constructed that aircraft can be launched therefrom and landed thereon, and not designed and constructed for carrying a more powerful armament than that allowed to it under Article IX or Article X, as the case may be.

Standard Displacement.

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The word "ton" in the present Treaty, except in the expression "metric tons," shall be understood to mean the ton of 2,240 pounds (1,016 kilo).

Vessels now completed shall retain their present ratings of displacement tonnage in accordance with their national system of measurement. However, a Power expressing displacement in metric tons shall be considered for the application of the present Treaty as owning only the equivalent displacement in tons of 2,240 pounds.

A vessel completed hereafter shall be rated at its displacement tonnage when in the standard condition defined herein.

ACT No. VIII OF 1923.[1]

[*5th March, 1923.*]

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

WHEREAS it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Workmen's Compensation Act, 1923.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on the first day of July, 1924.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years;

(*b*) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20;

(*c*) "compensation" means compensation as provided for by this Act;

(*d*) "dependant" means any of the following relatives of a deceased workman, namely, a wife, husband, parent, minor

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 313, and for Report of Joint Committee, *see ibid*, 1923, Pt. V, p. 37.

son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, and includes the minor children of a deceased son of the workman and, where no parent of the workman is alive, a paternal grand-parent;

(*e*) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;

(*f*) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

(*g*) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time: provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same, or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, or, any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act; 21 & 22 Vict., c. 90.

(*j*) "registered ship" means any sea-going ship registered under the [1]Bombay Coasting Vessels Act, 1838, or the [2]Indian Registration of Ships Act, 1841, or the [2]Indian Registration of Ships Act (1841) Amendment Act, 1850, or any home-trade ship so registered of a registered tonnage of not less than three hundred tons, or any inland steam-vessel as XIX of 1838. X of 1841. XI of 1850.

[1] Bombay Code.
[2] General Acts, Vol. I.

I of 1917. defined in section 2 of the [1]Inland Steam Vessels Act, 1917, of a registered tonnage of not less than one hundred tons;

(*k*) "seaman" means any person forming part of the crew of any registered ship, but does not include the master of any such ship;

(*l*) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement: provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent.;

(*m*) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(*n*) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(*i*) a railway servant as defined in section 3 of the [2]Indian
IX of 1890. Railways Act, 1890, not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(*ii*) employed, either by way of manual labour or on monthly wages not exceeding three hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of His Majesty's naval, military or air forces or of the Royal Indian Marine Service; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

[1] General Acts, Vol. VIII.
[2] General Acts, Vol. IV.

(2) The exercise and performance of the powers and duties of a local authority or of any department of the Government shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(3) The Governor General in Council after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do, may, by a like notification, direct that the provisions of this Act shall apply in the case of any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is employed by way of manual labour or on monthly wages not exceeding three hundred rupees in any occupation declared by such notification to be a hazardous occupation, or that the said provisions shall apply in the case of any specified class of such persons or in the case of any such person or class to whom any specified injury is caused; and any person in whose case the said provisions are so made applicable shall be deemed to be a workman within the meaning of this Act.

CHAPTER II.

WORKMEN'S COMPENSATION.

Employer's liability for compensation.

3. (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable—

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding ten days;

(b) in respect of any injury to a workman resulting from an accident which is directly attributable to—

(i) the workman having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen; or

(c) except in the case of death or permanent total disablement, in respect of any workman employed in the construction, repair or demolition of a building or bridge.

(2) If a workman employed in any employment involving the handling of wool, hair, bristles, hides or skins contracts the disease of anthrax, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

Explanation.—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

(3) The Governor General in Council, after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is solely and directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury—

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

Amount of compensation.

4. (1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

A. Where death results from the injury—

(i) in the case of an adult, a sum equal to thirty months' wages or two thousand five hundred rupees, whichever is less, and

(*ii*) in the case of a minor, two hundred rupees;

B. Where permanent total disablement results from the injury—

(*i*) in the case of an adult, a sum equal to forty-two months' wages or three thousand five hundred rupees, whichever is less, and

(*ii*) in the case of a minor, a sum equal to eighty-four months' wages or three thousand five hundred rupees, whichever is less;

C. Where permanent partial disablement results from the injury—

(*i*) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(*ii*) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury;

Explanation.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

D. Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of ten days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

(*i*) in the case of an adult, of fifteen rupees or a sum equal to one-fourth of his monthly wages, whichever is less, and

(*ii*) in the case of a minor, of a sum equal to one-third or, after he has attained the age of fifteen years, to one-half of his monthly wages, but not exceeding in any case fifteen rupees:

Provided that there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the

receipt of such lump sum or of the first half-monthly payment, as the case may be, and no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

(*2*) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

Method of calculating wages.

5. For the purposes of section 4 the monthly wages of a workman shall be calculated as follows, namely:—

(*a*) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(*b*) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period:

Provided that the sum arrived at by a calculation under clause (*a*) or clause (*b*) shall be increased or decreased, as the case may be, to the amount specified in the second column of Schedule IV against the head specified in the first column thereof within the limits of which such sum is included.

Explanation.—A period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Review.

6. (*1*) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(*2*) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled

less any amount which he has already received by way of half-monthly payments.

Commutation of half-monthly payments.

7. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

Distribution of compensation.

8. (*1*) Compensation payable in respect of a workman whose injury has resulted in death shall be deposited with the Commissioner, and any sum so deposited shall be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or, if he is a person under any legal disability, be invested, applied or otherwise dealt with for his benefit during such disability in such manner as the Commissioner thinks fit.

(*2*) Any other compensation payable under this Act may be deposited with the Commissioner and, when so deposited, shall be paid by the Commissioner to the person entitled thereto.

(*3*) The receipt of the Commissioner shall be a sufficient discharge in respect of any amount deposited with him under sub-section (*1*) or sub-section (*2*).

(*4*) On the deposit of any money under sub-section (*1*) the Commissioner may deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding fifty rupees, and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(*5*) Where a half-monthly payment is payable under this Act to a person under any legal disability, the Commissioner may, of his own motion or on application made to him in this behalf, order that the half-monthly payment be paid during the disability to any dependant of the workman or to any other person whom he thinks best fitted to provide for the welfare of the workman.

(*6*) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on

the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

Compensation not to be assigned, attached or charged.

9. Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

Notice and claim.

10. (*1*) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within six months of the occurrence of the accident or, in case of death, within six months from the date of death:

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (*2*) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

Provided, further, that the Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been instituted, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or institute the claim, as the case may be, was due to sufficient cause.

(*2*) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person directly responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(*3*) The notice may be served by delivering the same at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served.

Medical examination.

11. (*1*) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time:

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(*2*) If a workman, on being required to do so by the employer under sub-section (*1*) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(*3*) If a workman, before the expiry of the period within which he is liable under sub-section (*1*) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(*4*) Where a workman, whose right to compensation has been suspended under sub-section (*2*) or sub-section (*3*), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependents of the deceased workman.

(*5*) Where under sub-section (*2*) or sub-section (*3*) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (*1*) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(*6*) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is thereafter proved that the workman has not been regularly attended by a

qualified medical practitioner and that such refusal, failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner, and compensation, if any, shall be payable accordingly.

Contracting.

12. (*1*) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(*2*) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(*3*) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(*4*) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of employer against stranger.

13. Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Insolvency of employer.

14. (*1*) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a com-

pany, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(*2*) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(*3*) Where in any case such as is referred to in sub-section (*1*) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman:

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(*4*) There shall be deemed to be included among the debts which under section 49 of the [1]Presidency-towns Insolvency Act, 1909, or under section 61 of the [2]Provincial Insolvency Act, 1920, or under section 230 of the [3]Indian Companies Act, 1913, are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly. III of 1909. V of 1920. VII of 1913.

(*5*) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

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[1] General Acts, Vol. VI.
[2] *Supra.*
[3] General Acts, Vol. VII.

(*6*) The provisions of sub-section (*4*) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (*3*), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (*1*).

(*7*) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Special provisions relating to masters and seamen.

15. This Act shall apply in the case of workmen who are masters of registered ships or seamen subject to the following modifications, namely:—

(*1*) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(*2*) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(*3*) Where an injured master or seaman is discharged or left behind in any part of His Majesty's dominions or in a foreign country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Governor General in Council or any Local Government shall, in any proceedings for enforcing the claim, be admissible in evidence—

(*a*) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(*b*) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and

(*c*) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(*4*) In the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law in force for the time being in British India relating to merchant shipping liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under sub-section (*1*) of section 8 without making the deduction referred to in sub-section (*4*) of that section.

(*5*) No monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in British India relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

Returns as to compensation.

16. The Governor General in Council may, by notification in the Gazette of India, direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Governor General in Council may direct.

Contracting out.

17. Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

Proof of age.

18. Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, a certificate granted in respect of such person under section 7 or section 8 of the [1]Indian Factories Act, 1911, before the occurrence of the injury shall be conclusive proof of the age of such person. XII of 1911.

CHAPTER III.

COMMISSIONERS.

Reference to Commissioners.

19. (*1*) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by the Commissioner.

[1] General Acts, Vol. VII.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commssioner or to enforce any liability incurred under this Act.

Appointment of Commissioners.

20. (1) The Local Government may, by notification in the local official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

(2) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

(3) Every Commissioner shall be deemed to be a public servant within the meaning of the [1]Indian Penal Code. XLV of 1860.

Venue of proceedings and transfer.

21. (1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the local area in which the accident took place which resulted in the injury:

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before the Commissioner for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied by any party to any proceedings under this Act pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

Provided that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same province save with the previous sanction of the Local Government or to a Commissioner in another province save with the previous sanction of the Governor General in Council, unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the matter

[1] General Acts, Vol. I.

was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(*4*) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (*2*), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

Form of application.

22. (*1*) No application for the settlement of any matter by a Commissioner shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(*2*) Where any such question has arisen, the application may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:—

(*a*) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;

(*b*) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

(*c*) the names and addresses of the parties; and

(*d*) a concise statement of the matters on which agreement has and on those on which agreement has not been come to.

(*3*) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

Powers and procedure of Commissioners.

23. The Commissioner shall have all the powers of a Civil Court under the [1]Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects. V of 1908.

Appearance of parties.

24. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or other person authorised in writing by such person.

Method of recording evidence.

25. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness

[1] General Acts, Vol. VI.

proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided, further, that the evidence of any medical witness shall be taken down as nearly as may be word for word.

Costs.

26. All costs incidental to any proceedings before a Commissioner shall, subject to rules made under this Act, be in the discretion of the Commissioner.

Power to submit cases.

27. A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

Registration of agreements.

28. (*1*) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a person under a legal disability or to a dependant, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that—

(*a*) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

(*b*) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation and the employer proves that the workman has, in fact, returned to work and is earning the same wages as he did before the accident and objects to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the Commissioner thinks just in the circumstances;

(*c*) the Commissioner may at any time rectify the register;

(*d*) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a person under any legal disability or to any dependant, ought not to be registered by reason of the inadequacy of the sum or amount or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may

refuse to record the memorandum of the agreement and may make such order, including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(*2*) An agreement for the payment of compensation which has been registered under sub-section (*1*) shall be enforceable under this Act notwithstanding anything contained in the [1]Indian Contract Act, 1872, or in any other law for the time being in force. IX of 1872.

Effect of failure to register agreement.

29. Where a memorandum of any agreement, the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (*1*) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

Appeals.

30. (*1*) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

(*a*) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

(*b*) an order refusing to allow redemption of a half-monthly payment;

(*c*) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;

(*d*) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (*2*) of section 12; or

(*e*) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (*b*), unless the amount in dispute in the appeal is not less than three hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

[1] General Acts, Vol. II.

(2) The period of limitation for an appeal under this section shall be sixty days.

IX of 1908. (3) The provisions of section 5 of the [1]Indian Limitation Act, 1908, shall be applicable to appeals under this section.

Recovery. **31.** The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the [2]Revenue Recovery Act, 1890.

I of 1890.

CHAPTER IV.

RULES.

Power of the Governor General in Council to make rules. **32.** (1) The Governor General in Council may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;

(b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11;

(c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;

(d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;

(e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

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[1] General Acts, Vol. VI.
[2] General Acts, Vol. IV.

(*f*) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;

(*g*) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;

(*h*) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same; and

(*i*) for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power of Local Government to make rules.

33. The Local Government may, subject to the control of the Governor General in Council, make rules to provide for all or any of the following matters, namely:—

(*a*) for regulating the scales of costs which may be allowed in proceedings under this Act;

(*b*) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;

(*c*) for the maintenance by Commissioners of registers and records of proceedings before them; and

(*d*) generally for carrying out the provisions of this Act in respect of any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province.

Publication of rules.

34. (*1*) The power to make rules conferred by sections 32 and 33 shall be subject to the condition of the rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the [1] General Clauses Act, 1897, as that after which a draft of rules proposed to be made under section 32 or section 33 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information. X of 1897.

(*3*) Rules so made shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication, shall have effect as if enacted in this Act.

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[1] General Acts, Vol. IV.

SCHEDULE I.

[*See sections 2 (1) and 4.*]

List of injuries deemed to result in permanent partial disablement.

Injury.	Percentage of loss of earning capacity.
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II.

[*See section 2 (1) (n).*]

List of persons who, subject to the provisions of section 2 (1) (n), are included in the definition of workmen.

The following persons are workmen within the meaning of section 2 (*1*) (*n*) and subject to the provisions of that section, that is to say, any person who is—

(*i*) employed in connection with the service of a tramway as defined in section 3 of the [1]Indian Tramways Act, 1886; or

XI of 1886.

[1] General Acts, Vol. III.

(*ii*) employed within the meaning of clause (*2*) of section 2 of the [1]Indian Factories Act, 1911, in any place which is a factory within the meaning of sub-clause (*a*) of clause (*3*) of that section; or XII of 1911.

(*iii*) employed within the meaning of clause (*d*) of section 3 of the [2]Indian Mines Act, 1923, in any mine which is subject to the operation of that Act; or IV of 1923.

(*iv*) employed as the master of a registered ship or as a seaman; or

(*v*) employed for the purpose of loading, unloading or coaling any ship at any pier, jetty, landing place, wharf, quay, dock, warehouse or shed, on, in or at which steam, water or other mechanical power or electrical power is used; or

(*vi*) employed in the construction, repair or demolition of—

(*a*) a building which is designed to be, is, or has been more than one storey in height above ground level, or

(*b*) a building which is used, has been used, or is designed to be used, for industrial or commercial purposes and is, has been or is designed to be, not less than twenty feet in height measured from ground level to apex of the roof, or

(*c*) a bridge which is, has been or is designed to be more than fifty feet in length; or

(*vii*) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric cable; or

(*viii*) employed in the construction, inspection or upkeep of any underground sewer; or

(*ix*) employed in the service of any fire brigade.

SCHEDULE III.

(*See section 3.*)

List of occupational diseases.

Occupational disease.	Employment.
Lead poisoning or its sequelae . .	Any process involving the use of lead or its preparations or compounds.
Phosphorus poisoning or its sequelae .	Any process involving the use of phosphorus or its preparations or compounds.

[1] General Acts, Vol. VII.
[2] *Supra.*

SCHEDULE IV.

(*See section 5.*)

Table of assumed wages.

Limits.									Assumed Wages.		
Where the sum arrived at by a calculation under clause (*a*) or clause (*b*) of section 5 is—											
	Rs.	A.	P.		Rs.	A.	P.		Rs.	A.	P.
less than	9	0	0			...			8	0	0
not less than	9	0	0	but less than	11	0	0		10	0	0
,,	11	0	0	ditto	13	0	0		12	0	0
,,	13	0	0	ditto	17	8	0		15	4	0
,,	17	8	0	ditto	22	8	0		20	0	0
,,	22	8	0	ditto	27	8	0		25	0	0
,,	27	8	0	ditto	32	8	0		30	0	0
,,	32	8	0	ditto	37	8	0		35	0	0
,,	37	8	0	ditto	42	8	0		40	0	0
,,	42	8	0	ditto	50	0	0		46	4	0
,,	50	0	0	ditto	60	0	0		55	0	0
,,	60	0	0	ditto	70	0	0		65	0	0
,,	70	0	0	ditto	80	0	0		75	0	0
,,	80	0	0	...		...			83	5	4

ACT No. IX OF 1923[1].

[*5th March, 1923.*]

An Act further to amend the Indian Factories Act, 1911.

XII of 1911.

WHEREAS it is expedient further to amend the [2]Indian Factories Act, 1911; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Factories (Amendment) Act, 1923.

XII of 1911.

Addition of new sub-section to section 22, Act XII of 1911.

2. To section 22 of the [2]Indian Factories Act, 1911 (hereinafter referred to as the said Act), the following sub-section shall be added, namely:—

"(*2*) where, in accordance with the provisions of sub-section (*1*), any person is employed on a Sunday in consequence of his having had a holiday on one of the three days preceding that Sunday, that Sunday shall, for the purpose of calculating the weekly hours of work of such person, be deemed to be included in the preceding week."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 74.
[2] General Acts, Vol. VII.

Amendment of section 37, Act XII of 1911.

3. In section 37 of the said Act, for clause (*j*) of sub-section (*2*) the following clause shall be substituted, namely:—

"(*j*) the parts of the machinery and electrical fittings to be kept fenced in accordance with section 18, sub-section (*1*), clause (*c*), and the provisions to be made for the protection from danger of persons employed in attending to the machinery, electrical fittings or boilers."

Amendment of section 41, Act XII of 1911.

4. In clause (*g*) of section 41 of the said Act, for the figures and letter "19B" the figures and letter "19A" shall be substituted.

Amendment of section 50, Act XII of 1911.

5. Sub-section (*2*) of section 50 of the said Act shall be omitted.

ACT No. X OF 1923[1].

[*5th March, 1923.*]

An Act to consolidate the law relating to the Government Paper Currency.

WHEREAS it is expedient to consolidate the law relating to the Government Paper Currency; It is hereby enacted as follows:—

Preliminary.

Short title and extent.

1. (*1*) This Act may be called the Indian Paper Currency Act, 1923.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas.

Definition.

2. In this Act, "universal currency note" means—

(*a*) a note of the denominational value of one rupee, two and a half rupees, five rupees, ten rupees, fifty rupees, or one hundred rupees, or

(*b*) a note of any other denominational value which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.

The Currency Department.

Currency Department for issue of currency notes.

3. There shall continue to be a Department of the public service, to be called the Currency Department, whose function shall be the issue of promissory notes of the Government of India, to be called currency notes, payable to bearer on demand, and of such denominational values as the Governor General in Council may direct.

Controller of the Currency.

4. At the head of the Department there shall be an officer to be called the Controller of the Currency (hereinafter referred to as the Controller).

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 90.

Power to establish circles of issue, offices of issue, and currency agencies.

5. The Governor General in Council may, by notification in the Gazette of India,—

(*a*) establish districts, to be called circles of issue, seven of which circles shall include the towns of Calcutta, Madras, Bombay, Rangoon, Lahore, Cawnpore and Karachi, respectively;

(*b*) appoint in each circle some one town to be the place of issue of currency notes, as hereinafter provided;

(*c*) establish in each such town an office or offices of issue; and

(*d*) establish in any town situate in any circle an office, to be called a currency agency.

Deputy Controllers of the Currency and Currency Agents.

6. For each circle of issue there shall be an officer in charge to be called the Deputy Controller of the Currency, and for each Currency Agency an officer to be called the Currency Agent.

Subordination of Officers.

7. For the purposes of this Act—

(*a*) Deputy Controllers of the Currency shall be subordinate to the Controller; and

(*b*) the Currency Agent at any town shall be subordinate to the Deputy Controller of the Currency for the circle of issue in which that town is situate.

Appointment of Officers.

8. All officers under this Act shall be appointed by the Governor General in Council.

Supply and Issue of Currency Notes.

Controller and Deputy Controllers to provide and distribute currency notes.

9. (*1*) The Controller shall provide currency notes of the denominational values prescribed under this Act, and shall supply the Deputy Controllers with such notes as they need for the purposes of this Act.

(*2*) The Deputy Controllers shall supply the Currency Agents subordinate to them, respectively, with such notes as those Agents need for the purposes of this Act.

(*3*) Every such note, other than a universal currency note, shall bear upon it the name of the town from which it is issued.

Signatures to currency notes.

10. The name of the Controller or one of the Deputy Controllers, or of some other person authorised by the Controller or by one of the Deputy Controllers, to sign currency notes, shall be subscribed to every such note, and may be impressed thereon by machinery, and, when so impressed, shall be deemed to be a valid signature.

Issue of currency notes for silver or gold

11. The officers in charge of circles of issue shall, in their respective circles, on the demand of any person, issue, from the office or offices of issue established in their respective circles, currency notes of the

coin by officers in charge of circles.

denominational values prescribed under this Act, in exchange for the amount thereof—

(*a*) in rupees or silver half-rupees or in gold coin which is legal tender under the [1] Indian Coinage Act, 1906, or III of 1906.

(*b*) in rupees made and declared to be a legal tender under the provisions of the [2] Native Coinage Act, 1876. IX of 1876.

Issue of currency notes for silver or gold coin by Currency Agents.

12. Any Currency Agent to whom currency notes have been supplied under section 9 may, if he thinks fit, on the demand of any person, issue from his agency any such notes in exchange for the amount thereof in any coin specified in section 11.

Issue to Government Treasuries of currency notes for gold coin not legal tender or gold bullion.

13. The officers in charge of circles of issue shall, on the requisition of the Controller, issue to any Government Treasury currency notes in exchange for gold coin which is not legal tender under the [1] Indian Coinage Act, 1906, or for gold bullion at the rate of one rupee for 11·30016 grains troy of fine gold. III of 1906.

Currency Notes where legal tender and where payable.

Currency notes where legal tender.

14. A universal currency note shall be a legal tender at any place in British India, and

any other currency note shall be a legal tender at any place within the circle from which the note was issued,

for the amount expressed in the note in payment or on account of—

(*a*) any revenue or other claim, to the amount of one rupee or upwards, due to the Government of India, and

(*b*) any sum of one rupee or upwards, due by the Government of India or by any body corporate or other person in British India:

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue.

Currency notes where payable.

15. A currency note shall be payable at the following offices of issue, namely:—

(*a*) a universal currency note at any office of issue;

(*b*) a currency note other than a universal currency note at any office of issue in the town from which it was issued:

Provided that any such note issued before the 18th day of February, 1910, shall also be payable,—

(*i*) in the case of a note issued from the office at Cawnpore or Lahore, at any office of issue in Calcutta, and

(*ii*) in the case of a note issued from the office at Karachi, at any office of issue in Bombay.

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[1] General Acts, Vol. VI.
[2] General Acts, Vol. II.

16. For the purposes of sections 14 and 15, currency notes issued from any currency agency shall be deemed to have been issued from the town appointed under section 5 to be the place of issue in the circle of issue in which that agency is established. Currency notes issued from currency agencies where deemed to be issued.

17. Where an office of issue is closed, the Governor General in Council shall, by notification in the Gazette of India, direct that, with effect from the date of the closing of such office, all currency notes issued therefrom shall, for the purposes of sections 14 and 15, be deemed to have been issued from such other office as may be specified in such notification. Provision in case of closure of office.

Reserve.

18. (*1*) The provisions contained in this section shall not come into operation until such day (hereinafter referred to as the appointed day) as the Governor General in Council may direct in this behalf. Paper Currency Reserve.

(*2*) A Reserve shall be maintained for the satisfaction and discharge of the currency notes in circulation and all such notes shall be deemed to have been issued on the credit of the revenues of India as well as on that of the Reserve.

(*3*) The Reserve shall consist of two parts, namely:—

(*a*) the metallic Reserve, and

(*b*) the securities Reserve.

(*4*) The metallic Reserve shall consist of the total amount represented by the sovereigns, half-sovereigns, rupees, silver half-rupees, and gold and silver bullion for the time being held on that account by the Secretary of State for India in Council and by the Governor General in Council:

Provided that no amount of gold coin and bullion held by the Secretary of State in the United Kingdom in excess of fifty millions of rupees in value reckoned at the rate hereinafter provided for shall be included in the metallic Reserve.

(*5*) The securities Reserve shall consist of the securities which are for the time being held on that account by the Secretary of State for India in Council and on behalf of the Governor General in Council:

Provided that—

(*a*) no securities held by the Secretary of State for India in Council, other than securities of the United Kingdom the date of maturity of which is not more than one year from the date of their purchase, shall be included in the securities Reserve; and

(*b*) the securities held on behalf of the Governor General in Council shall be securities of the Government of India and shall not exceed in amount two hundred millions of rupees,

of which an amount of not more than one hundred and twenty millions of rupees may be securities created by the Government of India and issued to the Controller (such securities being hereinafter referred to as created securities).

(*6*) For the purposes of this section the expression " currency notes in circulation " means the whole amount of currency notes at any time in circulation:

Provided that currency notes which have not been presented for payment, in the case of notes of the denominational value of fifty or one hundred rupees, within forty years, and in the case of notes of any denominational value exceeding one hundred rupees, within one hundred years, from the first day of April following the date of their issue, shall be deemed to be not in circulation:

Provided, further, that all such notes shall be deemed to have been issued on the credit of the revenues of India and shall, if presented for payment, be paid from such revenues.

(*7*) Save as hereinafter provided in section 20, the amount of currency notes in circulation at any time shall not exceed the amount of the metallic Reserve together with the amount of the securities Reserve:

Provided that it shall not be lawful for the Governor General in Council to direct the issue of currency notes, if or to the extent that such issue would have the effect of raising the amount of notes in circulation to an amount in excess of twice the amount for the time being of the metallic Reserve.

(*8*) For the purpose of determining—

(*a*) the amount of the metallic Reserve, gold bullion shall be reckoned at the rate of one rupee for 11·30016 grains troy of fine gold, and silver bullion at the price in rupees at which it was purchased [1][or, in the case of bullion obtained by melting down silver coin issued under the authority of the Governor General in Council, at the rate of one rupee for 165 grains troy of fine silver],

(*b*) the amount of the securities Reserve, purchased securities shall be reckoned at the price at which they were purchased and created securities at the market price of similar securities on the date of their issue.

(*9*) The securities of the Government of India in the Reserve shall be held by the Controller and the Master of the Mint at Calcutta or of such other Mint as the Governor General in Council may direct in this behalf, in trust for the Secretary of State for India in Council.

[1] These words were added by s. 2 of the Indian Paper Currency (Amendment) Act, 1923 (XXXVI of 1923), *infra*.

Temporary provisions.

19. (*1*) As soon as conveniently may be after the relation of the amount of the currency notes in circulation to the amount of the Reserve has been brought into conformity with sub-sections (*2*) to (*8*) of section 18 and the metallic Reserve is not less than half the amount of currency notes in circulation, the Governor General in Council shall fix the appointed day.

(*2*) The provisions contained in this section shall be in force until the appointed day, but shall, as from that day, be deemed to be repealed.

(*3*) Save as hereinafter provided in section 20, the whole amount of currency notes at any time in circulation shall not exceed the total amount represented by the sovereigns, half-sovereigns, rupees, silver half-rupees and gold bullion, and the sum expended in the purchase of the silver bullion and securities, which are for the time being held by the Secretary of State for India in Council and by the Governor General in Council as a reserve to provide for the satisfaction and discharge of the said notes, and the said notes shall be deemed to have been issued on the credit of the revenues of India as well as on the security of the said coin, bullion and securities:

Provided that, for the purposes of this sub-section, currency notes which have not been presented for payment, in the case of notes of the denominational value of fifty or one hundred rupees within forty years, and, in the case of notes of any denominational value exceeding one hundred rupees, within one hundred years, from the first day of April following the date of their issue, shall be deemed not to be in circulation:

Provided, further, that all notes which are declared under the first proviso to this sub-section not to be in circulation shall be deemed to have been issued on the credit of the revenues of India and shall, if subsequently presented for payment, be paid from such revenues.

[1][*Explanation.*—For the purposes of this sub-section, the sum expended in the purchase of silver bullion obtained by melting down silver coin issued under the authority of the Governor General in Council shall be deemed to be the value of the bullion calculated at the rate of one rupee for 165 grains troy of fine silver.]

(*4*) The securities mentioned in sub-section (*3*) shall be securities of the United Kingdom of Great Britain and Ireland or of the Government of India, or securities issued by the Secretary of State for India in Council under the authority of Act of Parliament and charged on the revenues of India, and the value of them at the price at which they are purchased shall not exceed eight hundred and fifty millions of rupees.

Issue of currency notes for certain

(*5*) If the Secretary of State for India in Council consents to hold in gold coin or bullion or in silver bullion or in securities of the kinds

[1] This *Explanation* was added by s. 3 of the Indian Paper Currency (Amendment) Act, 1923 (XXXVI of 1923), *infra*.

gold coin or gold or silver bullion or securities held by Secretary of State.

mentioned in sub-section (*4*), the equivalent in value to notes issued in India as a reserve to secure the payment of such notes, the Governor General in Council may from time to time direct that currency notes shall be issued to an amount equal to the value of the coin, bullion and securities so held by the Secretary of State for India in Council.

(*6*) Notwithstanding anything to the contrary in this Act, any securities created by the Government of India and issued to the Controller shall, for the purposes of this Act, be deemed to be securities purchased by the Governor General in Council, and the market price, on the day such securities were so issued, of similar securities shall be deemed to be the price at which the securities so created were purchased, and all references to securities so purchased, wherever occurring in this Act, shall be deemed also to refer to securities so created, and all references to sums expended in such purchases or to prices paid therefor shall be deemed, in the case of securities so created, to refer to such prices, and this Act shall be construed accordingly.

(*7*) As long as the value of securities created by the Government of India and issued to the Controller and deemed in accordance with the provisions of the foregoing sub-section to be securities purchased by the Governor General in Council exceeds one hundred and twenty millions of rupees, all interest derived from the securities in the Reserve shall, with effect from the first day of April, [1][1924], be applied in reduction of such excess holding of securities and the Auditor-General shall in every year grant a certificate of the amount of such interest and shall also certify whether or not it has been so applied. For the purposes of this sub-section securities so created and issued shall be deemed to carry interest at the same rate as other similar securities.

(*8*) The securities purchased by the Governor General in Council shall be securities of the Government of India, and shall be held by the Controller and the Master of the Mint at Calcutta or of such other Mint as the Governor General in Council may direct in this behalf, in trust for the Secretary of State for India in Council.

Power to issue currency notes against bills of exchange.

20. Notwithstanding anything to the contrary in section 18 or section 19, the Governor General in Council may authorise the Controller to issue currency notes to an amount in all not exceeding [2][one hundred and twenty] millions of rupees against bills of exchange which will mature within ninety days from the date of such issue and satisfy such other conditions as the Governor General in Council may, by general or special order, prescribe. Currency notes so issued shall be in addition to those against which the Reserve is held and shall be deemed to have been

[1] These figures were substituted for the figures "1923" by s. 5 of the Indian Finance Act, 1923, *infra*.

[2] These words were substituted for the word "fifty" by s. 4 of the Indian Paper Currency (Amendment) Act, 1923 (XXXVI of 1923), *infra*.

issued on the credit of such bills and of the revenues of India and shall, when presented, be paid from such revenues.

Power to dispose of coin and bullion in reserve.

21. Subject to the provisions of sections 18 and 19, the Governor General in Council may at any time, if he thinks it expedient, convert any of the coin or bullion for the time being held by him as a part of the reserve into coin of any of the kinds mentioned in section 11 or into gold or silver bullion.

Coin or bullion not in India when deemed to be part of the reserve.

22. Notwithstanding anything to the contrary in this Act, any coin or bullion which is held by or on behalf of the Secretary of State for India in Council in the United Kingdom or under the control of the Government of any part of His Majesty's Dominions for the purpose of coinage for, or transmission to, the Governor General in Council and any coin or bullion which is in course of transmission from the Secretary of State for India in Council or the Government of any part of His Majesty's Dominions to the Governor General in Council and any coin or bullion which is in the course of transmission from the Governor General in Council to the Secretary of State for India in Council or the Government of any part of His Majesty's Dominions shall be deemed, during the period such coin or bullion is so held or is so in course of transmission, to be part of the reserve referred to in sections 18 and 19.

Power to sell and replace Indian securities.

23. (*1*) The Controller may, at any time, when ordered so to do by the Governor General in Council, sell and dispose of any of the securities held under sub-section (*9*) of section 18 or sub-section (*8*) of section 19.

(*2*) For the purpose of effecting such sales, the Master of the Mint at Calcutta or of such other Mint as aforesaid shall, on a request in writing from the Controller at all times sign and endorse the securities, and the Controller, if so directed by the Governor General in Council, may purchase securities of the Government of India to replace such sales.

Account of interest on securities.

24. An account showing the amount of the interest accruing on the securities held as part of the reserve under this Act and the expenses and charges incidental thereto, shall be rendered annually by the Controller to the Governor General in Council, and published annually in the Gazette of India.

Private Bills payable to Bearer on Demand.

Prohibition of issue of private bills or notes payable to bearer on demand.

25. No person in British India shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person:

Provided that cheques or drafts, payable to bearer on demand or otherwise, may be drawn on bankers, shroffs or agents by their

customers or constituents, in respect of deposits of money in the hands of those bankers, shroffs or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

Penalty for issuing such bills or notes and institution of prosecutions.

26. (*1*) Any person contravening the provisions of section 25 shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be punishable with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

(*2*) Every prosecution under this section shall be instituted by the officer in charge of the circle of issue in which the bill, hundi, note or engagement is drawn, accepted, made or issued.

Supplementary Provisions.

Abstracts of accounts.

27. An abstract of the accounts of the Currency Department, showing—

(*a*) the whole amount of currency notes in circulation;

(*b*) the amount of coin and bullion reserved, distinguishing gold from silver, and showing separately the amount of coin or bullion held by or on behalf of the Secretary of State for India in Council, or in transit from or to India, or in the custody of the Mint Master during coinage;

(*c*) the nominal value of, and the price paid for, the securities held as part of the reserve, showing separately those held by the Secretary of State for India in Council and those held in India under sub-section (*9*) of section 18 or sub-section (*8*) of section 19; and

(*d*) the amount of currency notes issued against bills of exchange under the provisions of section 20;

shall be made up four times in each month by the Controller, and published, as soon as may be, in the Gazette of India.

Provision as to lost, mutilated and imperfect notes.

28. Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall as of right be entitled to recover from the Government of India the value of any lost, mutilated or imperfect currency note:

Provided that the Governor General in Council may by rule prescribe the circumstances, conditions and limitations under which the value of such notes may be refunded as of grace.

Power to make rules.

29. (*1*) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) fix the denominational values for which currency notes shall be issued;

(*b*) provide for the alteration of the limits of any of the circles of issue;

(*c*) declare the places at which currency notes shall be issued; and

(*d*) prescribe the circumstances in, and the conditions and limitations subject to, which the value of lost, mutilated or imperfect currency notes may be refunded at the office of issue.

(*3*) Every such rule shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

Repeals. **30.** The enactments mentioned in the Schedule are hereby repealed to the extent specified in the last column thereof:

II of 1910. Provided that all securities purchased and notes issued under the Indian Paper Currency Act, 1910, and all securities and notes which, under section 30 of that Act, are to be deemed to have been purchased or issued thereunder shall, if undisposed of or in circulation at the commencement of this Act, be deemed to have been respectively purchased and issued under this Act:

Provided, further, that all currency notes, which, under the said section 30, are to be deemed to have been issued from the office of issue in the town of Cawnpore, shall still be deemed to have been issued from that office.

THE SCHEDULE.

[ENACTMENTS REPEALED.]

(*See section 30.*)

Year.	No.	Short title.	Extent of repeal.
1910	II	The Indian Paper Currency Act, 1910.	So much as has not been repealed.
1911	VII	The Indian Paper Currency (Amendment) Act, 1911.	The whole.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Paper Currency Act, 1910.
1917	XIX	The Indian Paper Currency (Amendment) Act, 1917.	So much as has not been repealed.
1920	XLV	The Indian Paper Currency (Amendment) Act, 1920.	The whole.
1922	XII	The Indian Finance Act, 1922.	Section 6.

ACT No. XI OF 1923.[1]

[*5th March, 1923.*]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule;

AND WHEREAS it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal, should be expressly and specifically repealed;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Repealing and Amending Act, 1923.

Amendment of certain enactments.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Savings.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 96.

THE FIRST SCHEDULE.

AMENDMENTS.

(*See section 2.*)

Year.	Number.	Short title.	Amendments.
		Acts of the Governor General in Council.	
1867	XXV	The Press and Registration of Books Act, 1867.	In section 17, for the words "the last foregoing section" the word and figures "section 16" shall be substituted. In section 21, before the words "the Local Government" the words "the Governor General in Council or" and before the words "the local Gazette" the words "the Gazette of India or" shall be inserted and after the words "local Gazette" the words "as the case may be" shall be inserted.
1869	IV	The Indian Divorce Act, 1869.	(1) In section 3, clause (*1*), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted. (2) In section 3, clause (*2*), for the word "Divisional" the word "District" shall be substituted.
1870	VII	The Court-fees Act, 1870	In Article 14, Schedule I, for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1877	I	The Specific Relief Act, 1877.	In section 45, for the words "and Bombay" the words "Bombay and Rangoon" shall be substituted.
1890	IX	The Indian Railways Act, 1890.	In sub-section (*5*) of section 59, for the words and figures "a person enrolled as a volunteer under the Indian Volunteers Act, 1869" the words "a member of the Indian Territorial Force or of the Auxiliary Force, India" shall be substituted.
1891	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	In section 2, clause (*4*), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1897	X	The General Clauses Act, 1897.	After section 30, the following section shall be inserted, namely :— "30A. In this Act the expression "Act of the Governor General in Council" wherever it occurs, except in section 5, shall be deemed to include an Act made by the Governor General under section 67B of the Government of India Act." Application of Act to Acts made by the Governor General.
1898	V	The Code of Criminal Procedure, 1898.	In section 4, sub-section (*1*), clause (*j*), the word "and" where it occurs between the words "Patna" and "Lahore" shall be omitted and for the words "the Chief Court of Lower Burma" the words "and Rangoon" shall be substituted.

THE FIRST SCHEDULE—*contd.*

Year.	Number.	Short title.	Amendments.
1899	II	The Indian Stamp Act, 1899.	In section 57, sub-section (*1*), clause (*d*), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1899	IX	The Indian Arbitration Act, 1899.	In section 23, sub-section (*1*), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1908	IX	The Indian Limitation Act, 1908.	In the second column of the First Schedule,— (1) For each of the entries in Articles 4 and 5 the entry "six months" shall be substituted. (2) For each of the entries in Articles 7 to 31 the entry "one year" shall be substituted. (3) For each of the entries in Articles 33 to 36 the entry "Two years" shall be substituted. (4) For each of the entries in Articles 38 to 115 and for the entry in Article 181 the entry "Three years" shall be substituted. (5) For each of the entries in Articles 117 to 120 the entry "Six years" shall be substituted. (6) For each of the entries in Articles 122 to 144 the entry "Twelve years" shall be substituted. (7) For each of the entries in Articles 146 and 146A the entry "Thirty years" shall be substituted. (8) For each of the entries in Articles 148 and 149 the entry "Sixty years" shall be substituted. (9) For each of the entries in Articles 153, 154 and Articles 164 to 170 the entry "Thirty days" shall be substituted. (10) For the entry in Article 159 the entry "Ten days" shall be substituted. (11) For the entry in Article 161 the entry "Fifteen days" shall be substituted. (12) For the entry in Article 172 the entry "Sixty days" shall be substituted. (13) For each of the entries in Articles 174 and 177 the entry "Ninety days" shall be substituted.
1911	II	The Indian Patents and Designs Act, 1911.	In sub-section (*1*) of section 78A, after the words "United Kingdom" where they first occur, the words "or his legal representative or assignee" shall be inserted.

THE FIRST SCHEDULE—*concld.*

Year.	Number.	Short title.	Amendments.
1912	IV	The Indian Lunacy Act, 1912.	In sections 3 (*4*), 35 (*2*) and 91 (*1*) (*c*), for the word "confinement" the word "detention" shall be substituted. In sections 30 and 35 (*2*) for the word "confined" wherever it occurs the word "detained" shall be substituted.
1917	I	The Inland Steam Vessels Act, 1917.	In section 22A (*1*), for the words "as to such Government" the words "as such Government" shall be substituted.
1918	XVI	The Provisional Collection of Taxes Act, 1918.	In section 2, for the words "a Member of the Executive Council of the Governor General" the words "any officer of Government acting on behalf of the Governor General in Council," shall be substituted. After section 3 the following section shall be inserted, namely :— "4. A declaration such as is referred to in section 2 may be made in respect of any provision of a Bill of the nature described in that section which provides for the imposition or variation of any tax in the nature of customs or excise duties and where such declaration has been made in respect of any such provision this Act shall have effect as if references to the Bill were references to such provision." Application of Act to specified clause of a Bill.
1920	XXVI	The Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920.	For section 2 the following section shall be substituted, namely :— "2. In the Third Division of the First Schedule to the Indian Limitation Act, 1908, in Articles 176, 177 and 179, for each of the entries in the second column the entry "ninety days" shall be substituted, and in Article 178, for the entry in the second column the entry "six months" shall be substituted.
1921	IX	The Enemy Missions Act, 1921.	In the Schedule, for the word "Budla" in the fourth column of the entries relating to the Assam Roman Catholic Mission Trust the words "Budla Beta" shall be substituted.
1922	II	The Indian Factories (Amendment) Act, 1922.	In section 25 (*b*), for the figures and letter "19B" the figures and letter "19A" shall be substituted.
		Regulation by the Governor General in Council	
1874	VIII	The Arakan Hills Civil Justice Regulation, 1874.	In section 76, for the words "Chief Court of British Burma" the words "High Court of Judicature at Rangoon" shall be substituted and for the words "Chief Court" where they elsewhere occur, the words "High Court" shall be substituted.

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

Year.	Number.	Short title.	Repeals.
		Acts of the Governor General in Council.	
1866	XXVII	The Indian Trustees Act, 1866.	In the definition of High Court in section 2, the words "and also the Chief Court of Lower Burma".
1866	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.	In the definition of High Court in section 1, the words "and includes the Chief Court of Lower Burma".
1870	VII	The Court-fees Act, 1870.	In Schedule I, Article 15.
1879	XVIII	The Legal Practitioners Act, 1879.	In section 41, sub-section (*4*), the words "except in the case of the Chief Court of Lower Burma".
1890	IX	The Indian Railways Act, 1890.	In section 26, sub-section (*3*), the words "or in the case of the Chief Court of Lower Burma, the Chief Judge".
1898	V	The Code of Criminal Procedure, 1898.	(1) Clause (*d*) of section 4, sub-section (*1*). (2) In section 266, the words "the Chief Court of Lower Burma and". (3) In section 364, sub-section (*1*), the words "or the Chief Court of Lower Burma". (4) In section 365, the words "and the Chief Court of Burma".
1900	VI	The Lower Burma Courts Act, 1900.	The whole Act.
1908	V	The Code of Civil Procedure, 1908.	(1) In section 122, the words "and the Chief Court of Lower Burma". (2) In section 123, sub-section (*1*), the words "and of the Chief Court". (3) In section 123, sub-section (*2*), the words "(in Burma)".
1910	XIV	The Indian Emigration (Amendment) Act, 1910.	The whole Act.
1914	IV	The Decentralisation Act, 1914.	So much of Part I of the Schedule as relates to the Indian Emigration Act, 1908.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Emigration Act, 1908.
1918	XIX	The Indian Defence Force (Further Amendment) Act, 1918.	The whole Act.
1919	XXIV	The Indian Companies Restriction Repealing Act, 1919.	The whole Act.

THE SECOND SCHEDULE—*contd.*

Year.	Number.	Short title.	Repeals.
1920	XXXVIII	The Devolution Act, 1920.	So much of Part I of the First Schedule as relates to the Indian Emigration Act, 1908.
1921	VI	The Indian Finance Act, 1921.	The whole Act.
1922	XXIII	The Indian Transfer of Ships Restriction (Repealing) Act, 1922.	The whole Act.
		Regulations by the Governor General in Council.	
1892	V	The Upper Burma Criminal Justice Regulation, 1892.	In the Schedule, section I and sub-sections (*1*) to (*4*) of section II and section X.
1896	I	The Upper Burma Civil Courts Regulation, 1896.	The whole Regulation.

ACT No. XII OF 1923.[1]

[*16th March, 1923.*]

An Act further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings.

V of 1898. IX of 1874. IX of 1908. C. P. Act I of 1917.

WHEREAS it is expedient further to amend the [2]Code of Criminal Procedure, 1898, the [3]European Vagrancy Act, 1874, the [4]Indian Limitation Act, 1908, and the [5]Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Criminal Law Amendment Act, 1923.

(*2*) It shall come into force on such [6]date as the Governor General in Council may, by notification in the Gazette of India, appoint.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. I, p. 96.
[2] General Acts, Vol. V.
[3] General Acts, Vol. II.
[4] General Acts, Vol. VI.
[5] Central Provinces Code.
[6] Brought into force from 1st September, 1923—*vide* Notification No. F.-222-23, dated the 10th August, 1923, Gazette of India, 1923, Pt. I, p. 901.

Amendment of section 4, Code of Criminal Procedure, 1898.

European British subject.

2. (*1*) In sub-section (*1*) of section 4 of the [1]Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), for clause (*i*) the following clause shall be substituted, namely:— V of 1898.

"(*i*) 'European British subject' means—

(*i*) any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

(*ii*) any subject of His Majesty who is the child or grand-child of any such person by legitimate descent."

(*2*) In clause (*j*) of the same sub-section, after the word "Rangoon" the words "and the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind" shall be inserted.

Amendment of section 22, Code of Criminal Procedure, 1898.

3. In section 22 of the said Code, the words and brackets "(other than the presidency-towns)" shall be omitted, and for the words "European British subjects" the words "persons resident within British India and not being the subjects of any foreign State" shall be substituted.

Repeal of sections 23 and 24, Code of Criminal Procedure, 1898.

4. Sections 23 and 24 of the said Code shall be omitted.

Amendment of section 29, Code of Criminal Procedure, 1898.

5. In sub-section (*1*) of section 29 of the said Code, for the words and figures "provisions of section 447" the words "other provisions of this Code" shall be substituted.

Insertion of new section 29A in the Code of Criminal Procedure, 1898.

6. After section 29 of the said Code the following section shall be inserted, namely:—

Trial of European British subjects by second and third class Magistrates.

"29A. No Magistrate of the second or third class shall inquire into or try any offence which is punishable otherwise than with fine not exceeding fifty rupees where the accused is an European British subject who claims to be tried as such."

Insertion of new section 34A in the Code of Criminal Procedure, 1898.

7. After section 34 of the said Code the following section shall be inserted, namely:—

Sentences which Courts and Magistrates may pass upon European British subjects.

"34A. Notwithstanding anything contained in sections 31, 32 and 34—

(*a*) no Court of Session shall pass on any European British subject any sentence other than a sentence of death, penal servitude, or imprisonment with or without fine, or of fine, and

[1] General Acts, Vol. V.

(*b*) no District Magistrate or other Magistrate of the first class shall pass on any European British subject any sentence other than imprisonment which may extend to two years, or fine which may extend to one thousand rupees, or both."

8. Section 111 of the said Code shall be omitted. Repeal of section 111, Code of Criminal Procedure, 1898.

9. In sub-section (*1*) of section 206 of the said Code the words and figures "Subject to the provision of section 443" shall be omitted. Amendment of section 206, Code of Criminal Procedure, 1898.

10. Section 214 of the said Code shall be omitted. Repeal of section 214, Code of Criminal Procedure, 1898.

11. In section 215 of the said Code, the words and figures "or section 214" shall be omitted. Amendment of section 215, Code of Criminal Procedure, 1898.

12. In section 266 of the said Code, after the word "includes" the following words shall be inserted, namely:—"the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind and". Amendment of section 266, Code of Criminal Procedure, 1898.

13. In sub-section (*2*) of section 274 of the said Code, for the word "three" the word "five" shall be substituted; and to the same sub-section the following proviso shall be added, namely:— Amendment of section 274, Code of Criminal Procedure, 1898.

"Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist of not less than seven persons and, if practicable, of nine persons."

14. For section 275 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 275, Code of Criminal Procedure, 1898.

"275. (*1*) In a trial by jury before the High Court or Court of Session of a person who has been found under the provisions of this Code to be an European or Indian British subject, a majority of the jury shall, if such person before the first juror is called and accepted so requires, consist, in the case of an European British subject, of Jury for trial of European and Indian British subjects and others.

persons who are Europeans or Americans and, in the case of an Indian British subject, of Indians.

(*2*) In any such trial by jury of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, a majority of the jury shall, if practicable and if such European or American before the first juror is called and accepted so requires, consist of persons who are Europeans or Americans."

Amendment of section 284, Code of Criminal Procedure, 1898.

15. In section 284 of the said Code, for the words "two or more shall be chosen, as the Judge thinks fit," the words "not less than three and, if practicable, four shall be chosen" shall be substituted.

Insertion of new section 284A in the Code of Criminal Procedure, 1898.

16. After section 284 of the said Code the following section shall be inserted, namely:—

Assessors for trial of European and Indian British subjects and others.

"284A. (*1*) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European or Indian British subject, if the European or Indian British subject accused, or, where there are several European British subjects accused, or several Indian British subjects accused, all of them jointly, before the first assessor is chosen so require, all the assessors shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians.

(*2*) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, all the assessors shall, if practicable and if such European or American before the first assessor is chosen so requires, be persons who are Europeans or Americans."

Insertion of new section 285A in the Code of Criminal Procedure, 1898.

17. After section 285 the following heading and section shall be inserted, namely:—

"DD.—*Joint trials.*

Trial of European or Indian British subject or European or American jointly accused with others.

285A. In any case in which an European or American is accused jointly with a person not being an European or American, or an Indian British subject is accused jointly with a person not being an Indian, and such European, Indian British subject or American is committed for trial before a Court of Session, he and such other person may be tried together, but if he requires to be tried in accordance with the provisions of section 275 or section 284A and is so tried, and the other person accused requires to be tried separately, such other person shall be tried separately in accordance with the provisions of this Chapter."

18. For section 312 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 312, Code of Criminal Procedure, 1898.

"312. The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors list: Number of special jurors.

Provided that no definite number of Europeans or of Americans or of Indians shall be so prescribed."

19. (*1*) In sub-section (*1*) of section 326 of the said Code, after the words "for any such trial" the following words shall be added, namely:— Amendment of section 326, Code of Criminal Procedure, 1898.

"and including, where any accused person is an European or an American, as many Europeans or Americans as may be required for the purpose of choosing jurors or assessors for the trial."

(*2*) To the same section the following sub-sections shall be added, namely:—

"(*3*) Where the accused requires and is entitled to be tried under the provisions of section 275, there shall be chosen by lot, in the manner prescribed by or under section 276, from the whole number of persons returned the jurors who are to constitute the jury until a jury containing the proper number of Europeans or Europeans and Americans or of Indians, as the case may be, has been obtained:

Provided that, in any case in which the proper number of Europeans or Americans cannot otherwise be obtained, the Court may, in its discretion for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

(*4*) Where, under the proviso to sub-section (*3*), the Court proposes to summon as a juror any person in His Majesty's Army, the provisions of section 317 shall apply in like manner as they apply for the purpose of the summoning of military jurors for a trial under section 316."

20. Section 336 of the said Code shall be omitted. Repeal of section 336, Code of Criminal Procedure, 1898.

21. In section 390 of the said Code, after the word "shall" the words "subject to the provisions of section 391" shall be inserted. Amendment of section 390, Code of Criminal Procedure, 1898.

22. In sub-section (*1*) of section 391 of the said Code, for the words "is sentenced to whipping in addition to imprisonment in a case which Amendment of section 391,

Code of Criminal Procedure, 1898.

is subject to appeal" the following shall be substituted, namely:—

"(*a*) is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or

(*b*) is sentenced to whipping in addition to imprisonment."

Amendment of section 408, Code of Criminal Procedure, 1898.

23. In section 408 of the said Code, clause (*a*) of the proviso shall be omitted.

Amendment of section 413, Code of Criminal Procedure, 1898.

24. In section 413 of the said Code, the words "or the District Magistrate or other Magistrate of the first class" and the words "or of whipping only" shall be omitted; and after the words "one month only or" the words "in which a Court of Session or District Magistrate or other Magistrate of the first class passes a sentence" shall be inserted.

Amendment of section 414, Code of Criminal Procedure, 1898.

25. In section 414 of the said Code, the words "of imprisonment not exceeding three months only, or" and the words "or of whipping only" shall be omitted.

Repeal of section 416, Code of Criminal Procedure, 1898.

26. Section 416 of the said Code shall be omitted.

Substitution of new Chapter for Chapter XXXIII, Code of Criminal Procedure, 1898.

27. For Chapter XXXIII including sections 443 to 463 of the said Code the following Chapter and sections shall be substituted, namely:—

"CHAPTER XXXIII.

SPECIAL PROVISIONS RELATING TO CASES IN WHICH EUROPEAN AND INDIAN BRITISH SUBJECTS ARE CONCERNED.

Determination regarding applicability of this Chapter.

443. (*1*) Where, in the course of the trial outside a presidency-town of any offence punishable with imprisonment, the accused person, at any time before he is committed for trial under section 213 or is asked to show cause under section 242 or enters on his defence under section 256, as the case may be, claims that the case ought to be tried under the provisions of this Chapter, the Magistrate inquiring into or trying the case, after making such inquiry as he thinks necessary, and after allowing the accused person reasonable time within which to adduce evidence in support of his claim, shall, if he is satisfied—

(*a*) that the complainant and the accused persons or any of them are respectively European and Indian British subjects or Indian and European British subjects, or

(*b*) that, in view of the connection with the case of both an European British subject and an Indian British subject, it is expedient for the ends of justice that the case should be tried under the provisions of this Chapter,

record a finding that the case is a case which ought to be tried under the provisions of this Chapter, or, if he is not so satisfied, record a finding that it is not such a case.

(*2*) Where the Magistrate rejects the claim, the person by whom it was made may appeal to the Sessions Judge, and the decision of the Sessions Judge thereon shall be final and shall not be questioned in any Court in appeal or revision.

(*3*) Where the Magistrate rejects the claim, he shall stay the proceedings until the expiration of the period allowed for the presentation of the appeal or, if an appeal is presented, until it has been decided.

Definition of "complainant."

444. For the purposes of section 443, "complainant" means any person making a complaint or, in relation to any case of which cognizance is taken under clause (*b*) of section 190, sub-section (*1*), any person who has given information relating to the commission of the offence within the meaning of section 154:

Provided that a Public Prosecutor, a public servant, a member, officer or servant of any local authority, a railway servant as defined in section 3 of the [1]Indian Railways Act, 1890, or an officer or servant of any company, association or other body to which the Local Government may, by general or special order published in the local official Gazette, declare the provisions of this section to apply, shall not, by reason only of the fact that he has made a complaint of, or given information of, an offence in his capacity as such Public Prosecutor, public servant, railway servant, member, officer or servant, be deemed to be a complainant within the meaning of this section, nor shall a police-officer be so deemed by reason only of the fact that a report under section 173 relating to a case has been made by or through him.

IX of 1890.

Procedure in summons-cases.

445. (*1*) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a summons-case, the Magistrate trying the same shall direct that the case be referred to a Bench of two Magistrates and shall send a copy of such order to the District Magistrate who shall forthwith provide for the constitution of a Bench of two Magistrates of the first class, of whom one shall be an European and the other an Indian, for the trial of the case.

(*2*) Where the Magistrates constituting the Bench by which a case is tried under this section differ in opinion, the case, together with their opinions thereon, shall be laid before the Sessions Judge, who

[1] General Acts, Vol. IV.

may examine any party or recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall thereafter pass such judgment, sentence or order in the case as he thinks fit and as is according to law.

(*3*) Any person convicted by a Bench under this section shall have the same right of appeal as if he had been convicted by a Magistrate of the first class, and any person convicted by a Sessions Judge under sub-section (*2*) shall have the same right of appeal to the High Court as if he had been convicted by the Sessions Judge at a trial held by the Sessions Judge under this Code.

(*4*) In any case in which it is impracticable to constitute a Bench in accordance with the provisions of sub-section (*1*) in any district, the District Magistrate shall transfer the case for trial by a like Bench to such other district as the High Court may, by general or special order, direct.

(*5*) Notwithstanding anything contained in this section, the Local Government may, by notification in the local official Gazette, direct that all summons-cases tried under the provisions of this Chapter in any district specified in the notification shall be tried as if they were warrant-cases in accordance with the provisions hereinafter in this Chapter laid down for the trial of warrant-cases.

Procedure in warrant-cases.

446. (*1*) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a warrant-case, the Magistrate inquiring into or trying the case shall, if he does not discharge the accused under section 209 or section 253, as the case may be, commit the case for trial to the Court of Session, whether the case is or is not exclusively triable by that Court.

(*2*) Where an accused is committed to the Court of Session under sub-section (*1*), the Court shall proceed to try the case as if the accused had required to be tried in accordance with the provisions of section 275, and the provisions of that section and the other provisions of Chapter XXIII, so far as they are applicable, shall apply accordingly:

Provided that where the trial before the Court of Session would in the ordinary course be with the aid of assessors and the accused, or all of them jointly, require to be tried in accordance with the provisions of section 284A, the trial shall be held with the aid of assessors all of whom shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians.

Court to inform accused persons of their rights in certain cases.

447. If at any stage of an inquiry or trial under this Code it appears to the Magistrate that the case is or might be held to be a case which ought to be tried under the provisions of this Chapter, he shall forthwith inform the accused person of his rights under this Chapter.

448. For the purpose of the trial in Rangoon of any person under the provisions of this Chapter, references to the Sessions Judge shall be construed as references to the High Court of Judicature at Rangoon. References to Sessions Judge to be construed as references to High Court in Rangoon.

449. (*1*) Where— Special provisions relating to appeal.

(*a*) a case is tried by jury in a High Court or Court of Session under the provisions of this Chapter, or

(*b*) a case which would otherwise have been tried under the provisions of this Chapter is under this Code committed to or transferred to the High Court and is tried by jury in the High Court, or

(*c*) a case is tried by jury in the High Court in a presidency-town and the High Court grants leave to appeal on the ground that the case would, if it had been tried outside a presidency-town, have been triable under the provisions of this Chapter,

then, notwithstanding anything contained in section 418 or section 423, sub-section (*2*), or in the letters patent of any High Court, an appeal may lie to the High Court on a matter of fact as well as on a matter of law.

(*2*) Notwithstanding anything contained in the letters patent of any High Court, the Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original order of acquittal passed by the High Court in any such trial as is referred to in sub-section (*1*).

(*3*) An appeal under sub-section (*1*) or sub-section (*2*) shall, where the High Court consists of more than one Judge, be heard by two Judges of the High Court."

28. In sub-section (*2*) of section 478 of the said Code, the words and figures "subject to the provisions of section 443" shall be omitted; and, after the word and figures "Chapter XVIII" the words and figures "and of Chapter XXXIII in cases where that Chapter applies" shall be inserted. Amendment of section 478, Code of Criminal Procedure, 1898.

29. In section 480 of the said Code,— Amendment of section 480, Code of Criminal Procedure, 1898.

(*a*) in sub-section (*1*), the words "whether he is a European British subject or not" shall be omitted; and

(*b*) in sub-section (*2*), for the words and figures "section 443 or section 444" the words and figures "section 29A or in Chapter XXXIII" shall be substituted.

30. (*1*) In sub-section (*1*) of section 491 of the said Code,— Amendment of section 491, Code of Criminal Procedure, 1898.

(*a*) for the words "Any of the High Courts of Judicature at Fort William, Madras and Bombay" the words "Any High Court" shall be substituted; and

(*b*) for the words "ordinary original civil jurisdiction" the words "appellate criminal jurisdiction" shall be substituted.

(*2*) In sub-section (*2*) of the same section, for the words "Each of the said High Courts" the words "The High Court" shall be substituted.

Insertion of new section 491A in the Code of Criminal Procedure, 1898.

31. In Chapter XXXVII of the said Code, after section 491 the following section shall be inserted, namely:—

Powers of High Court outside the limits of appellate jurisdiction.

"491A. Any High Court established by letters patent may exercise the powers conferred by section 491 in the case of any European British subject within such territories, other than those within the limits of its appellate criminal jurisdiction, as the Governor General in Council may direct."

Insertion of new section 526A in the Code of Criminal Procedure, 1898.

32. After section 526 of the said Code the following section shall be inserted, namely:—

High Court to transfer for trial to itself in certain cases.

"526A. (*1*) Where any person subject to the Naval Discipline Act or to the Army Act or to the Air Force Act is accused of any offence such as is referred to in proviso (*a*) to section 41 of the Army Act, the Advocate General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury. 29 and 30 Vic., c. 109. 44 and 45 Vic., c. 58. 7 and 8 Geo. V, c. 51.

(*2*) The Governor General in Council may, by notification in the Gazette of India, declare any officer to be the competent authority for the purpose of issuing instructions under sub-section (*1*) in regard to any class of cases specified in the notification."

Insertion of new Chapter XLIVA in the Code of Criminal Procedure, 1898.

33. After Chapter XLIV of the said Code, the following Chapter shall be inserted, namely:—

"CHAPTER XLIVA.

SUPPLEMENTARY PROVISIONS RELATING TO EUROPEAN AND INDIAN BRITISH SUBJECTS AND OTHERS.

Procedure of claim of a person to be dealt with as

528A. (*1*) Where, in any case to which the provisions of Chapter XXXIII do not apply, any person claims to be dealt with as an European or Indian British subject, or where any person claims to be dealt with

as an European (other than an European British subject) or an American, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall deal with him accordingly. European or Indian British subject, or as European or American.

(2) When any such claim is rejected by the Magistrate and the person by whom it was made is committed by the Magistrate for trial before the Court of Session, and such person repeats the claim before such Court, such Court shall, after such further inquiry, if any, as it thinks fit, decide the claim, and shall deal with such person accordingly.

(3) When any Court before which any person is tried rejects any such claim as aforesaid the decision shall form a ground of appeal from the sentence or order passed in such trial.

528B. If in any such case an European or Indian British subject or an European (other than an European British subject) or an American does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and rejected by the committing Magistrate, it is not repeated before the Court to which such person is committed, he shall be held to have relinquished his right to be dealt with as an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall not assert it in any subsequent stage of the case. Failure to plead status a waiver.

528C. Where a person, not being an European British subject, is dealt with as an European British subject or, not being an Indian British subject, is dealt with as an Indian British subject or, not being an European (other than an European British subject) or American, is dealt with as an European or American, and such person does not object, the inquiry, commitment, trial, or sentence, as the case may be, shall not, by reason of such dealing, be invalid. Trial of person as belonging to class to which he does not belong.

528D. (1) Unless there is something repugnant in the context, all enactments made by the Governor General in Council or the Indian Legislature which confer on Magistrates or on the Court of Session jurisdiction over offences shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein. Application of Acts conferring jurisdiction on Magistrates or Courts of Session.

(2) Nothing in this section shall be deemed to authorise any Court to exceed the limits prescribed by this Code as to the amount of punishment which it may inflict on an European British subject or to confer jurisdiction on any Magistrate of the second or third class for the trial of such subjects."

Amendment of section 534, Code of Criminal Procedure, 1898.

34. For section 534 of the said Code the following section shall be substituted, namely:—

Omission to give information under section 447.

"534. An omission to inform under section 447 any person of his rights under Chapter XXXIII shall not affect the validity of any proceeding."

Amendment of section 4, Act IX of 1874.

35. In section 4 of the [1]European Vagrancy Act, 1874 (hereinafter referred to as the said Act), for the words "the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the [2]Code of Criminal Procedure" the words "the nearest Magistrate of the first class" shall be substituted. IX of 1874. V of 1898

Amendment of sections 5, 8 and 29, Act IX of 1874.

36. In sections 5, 8 and 29 of the said Act, for the word "Justice" the words "Magistrate of the first class" shall be substituted.

Amendment of sections 7, 9, 10 and 24, Act IX of 1874.

37. In sections 7, 9, 10 and 24 of the said Act, for the words "Justice of the Peace exercising powers as aforesaid" the words "Magistrate of the first class" shall be substituted; and, in section 10 of the said Act, the words "Justice of the Peace," where they first occur, shall be omitted.

Amendment of section 19, Act IX of 1874.

38. In section 19 of the said Act, for the words "Justice of the Peace," wherever they occur, the words "Magistrate of the first class" shall be substituted.

Amendment of section 30, Act IX of 1874.

39. In section 30 of the said Act, the words "beyond the limits of the said towns" the words and brackets "(other than those contained in Chapter XXXVIII of the same Code)", and the words "If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court, he shall not be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of anything contained in the former part of this section" shall be omitted.

Amendment of section 35, Act IX of 1874.

40. In section 35 of the said Act, the words "Justices of the Peace exercising the powers of a Magistrate of the first class" shall be omitted.

Amendment of the First Schedule to Act IX of 1874.

41. In the First Schedule to the said Act, for the words "Justice of the Peace for exercising the powers of a Magistrate of the class" the words "Magistrate of the first class" shall be substituted.

Amendment of First Schedule to Act IX of 1908.

42. In the First Schedule to the [3]Indian Limitation Act, 1908, the following item shall be inserted after item 150, namely:— IX of 1908.

"150A.—Under the Code of Criminal Procedure, 1898, from a finding rejecting a claim under section 443 of that Code.	Seven days.	The date of the finding."

[1] General Acts, Vol. II.
[2] General Acts, Vol. V.
[3] General Acts, Vol. VI.

C. P. Act I of 1917.

43. In section 3 of the [1]Central Provinces Courts Act, 1917, the words "except in reference to proceedings against European British subjects and persons jointly charged with the European British subjects" shall be omitted. Amendment of section 3, Central Provinces Courts Act, 1917.

ACT No. XIII OF 1923.[2]

[*16th March, 1923.*]

An Act further to amend the Married Women's Property Act, 1874.

III of 1874.

WHEREAS it is expedient further to amend the [3]Married Women's Property Act, 1874; It is hereby enacted as follows:—

1. This Act may be called the Married Women's Property (Amendment) Act, 1923. Short title.

III of 1874.

2. Section 6 of the [3]Married Women's Property Act, 1874, shall be renumbered as sub-section (*1*) of section 6, and to the said section the following sub-section shall be added, namely:— Amendment of section 6, Act III of 1874.

"(*2*) Notwithstanding anything contained in section 2, the provisions of sub-section (*1*) shall apply in the case of any policy of insurance such as is referred to therein which is effected by any Hindu, Muhammadan, Sikh or Jain, in Madras after the thirty-first day of December, 1913, or in any other part of British India after the first day of April, 1923:

Provided that nothing herein contained shall affect any right or liability which has accrued or been incurred under any decree of a competent Court passed before the first day of April, 1923."

ACT No. XIV OF 1923.[4]

[*16th March, 1923.*]

An Act to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the

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[1] Central Provinces Code.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 179; and for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 75.

[3] General Acts, Vol. II.

[4] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 59; and for Report of Joint Committee, *see ibid*, 1923, Pt. V, p. 97.

improvement and development of the growing, marketing and manufacture of cotton in India; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Cotton Cess Act, 1923.

(*2*) It extends to the whole of British India (including British Baluchistan and the Sonthal Parganas), except Aden.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Collector" means, in reference to cotton consumed in a mill in British India, the Collector of the district in which the mill is situated;

(*b*) "the Committee" means the Indian Central Cotton Committee constituted under this Act;

(*c*) "cotton" means raw cotton, whether baled or loose, which has been ginned;

(*d*) "Customs-collector" and "customs-port" mean respectively a Customs-collector and a customs-port as defined in section 3 of the [1]Sea Customs Act, 1878; VIII of 1878.

(*e*) "mill" means any place which is a factory as defined in section 2 of the [2]Indian Factories Act, 1911, and in which cotton is converted into yarn or thread either for sale as such or for conversion into cotton goods as defined in section 3 of the [3]Cotton Duties Act, 1896; and XII of 1911. II of 1896.

(*f*) "prescribed" means prescribed by rules made under this Act.

Imposition of cotton cess.

3. There shall be levied and collected on all cotton produced in India and either exported from any customs-port to any port outside British India or consumed in any mill in British India a cess at the rate of two annas per standard bale of four hundred pounds avoirdupois, or, in the case of unbaled cotton, of six pies per hundred pounds avoirdupois:

Provided that the cess shall be levied and collected at double the above rates until the expiry of three years from the commencement of this Act.

Constitution of Indian Central Cotton Committee.

4. As soon as may be after the commencement of this Act, the Governor General in Council shall cause to be constituted a Committee consisting of the following members, namely:—

(*i*) the Agricultural Adviser to the Government of India;

(*ii*) six persons representing, respectively, the Agricultural Departments of the Local Governments of Madras, Bombay, the United Provinces, the Punjab, the Central Provinces and Burma and nominated respectively by those Local Governments;

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[1] General Acts, Vol. II.
[2] General Acts, Vol. VII.
[3] General Acts, Vol. IV.

(*iii*) the Director General of Commercial Intelligence;

(*iv*) nine persons nominated, respectively, by the East India Cotton Association, the Bombay Millowners' Association, the Bombay Chamber of Commerce, the Indian Merchants' Chamber, Bombay, the Karachi Chamber of Commerce, the Ahmedabad Millowners' Association, the Tuticorin Chamber of Commerce, the Upper India Chamber of Commerce, and the Empire Cotton Growing Corporation;

(*v*) four persons representing the cotton manufacturing or cotton ginning industry, of whom two shall be nominated by the Local Government of the Central Provinces and one by each of the Local Governments of Madras and the Punjab;

(*vi*) one person nominated by the Local Government of Bengal;

(*vii*) one person having knowledge of co-operative banking nominated by the Governor General in Council;

(*viii*) ten persons representing the cotton growing industry in Madras, Bombay, the United Provinces, the Punjab, and the Central Provinces and Berar, of whom two shall be nominated by each of the Local Governments of those Provinces;

(*ix*) three persons nominated, respectively, by the Government of His Exalted Highness the Nizam of the Hyderabad State, by the Durbar of the Baroda State and by the Durbar of the Gwalior State;

(*x*) one person nominated jointly by the Durbars of the Indian States in Rajputana and Central India; and

(*xi*) such additional persons as the Governor General in Council may, by notification in the Gazette of India, appoint:

Provided that, if within the period prescribed in this behalf, any authority or other person fails to make any nomination which it or he is entitled to make under this section, the Governor General in Council may himself appoint a member or members, as the case may be, to fill the vacancy or vacancies.

Incorporation of the Committee.

5. (*1*) The Committee so constituted shall be a body corporate by the name of the Indian Central Cotton Committee, having perpetual succession and a common seal with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

(*2*) The Agricultural Adviser to the Government of India shall be *ex-officio* President of the Committee.

(*3*) The Secretary of the Committee shall be a person, not being a member of the Committee, appointed by the Governor General in Council.

Delivery of monthly returns.

6. (*1*) The owner of every mill shall furnish to the Collector, on or before the seventh day of each month, a return stating the total amount of cotton consumed or brought under process in the mill during the preceding month, together with such further information in regard thereto as may be prescribed:

Provided that no return shall be required in regard to cotton consumed or brought under process before the commencement of this Act.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of cess by Collector.

7. (*1*) On receiving any return made under section 6, the Collector shall assess the cotton cess payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the owner of the mill requiring him to make payment of the amount assessed within ten days of the service of the notice.

(*2*) If the owner of any mill fails to furnish in due time the return referred to in section 6 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount payable by him in such manner, if any, as may be prescribed, and the provisions of sub-section (*1*) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the owner:

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the cess at an amount higher than that at which it is assessable on the basis of the return without giving to the owner a reasonable opportunity of proving the correctness and completeness of the return.

(*3*) A notice under sub-section (*1*) may be served on the owner of a mill either by post or by delivering it or tendering it to the owner or his agent at the mill.

Collection of cess on exported cotton.

8. In respect of cotton exported by sea, the cess shall be assessed and levied by the Customs-collector at the customs-port of export and, subject to the provisions of this Act and of any rules made thereunder, shall, for all or any of the purposes of the [1]Sea Customs Act, 1878, be deemed to be a duty of customs. VIII of 1878.

Finality of assessment and recovery of unpaid cess.

9. (*1*) An assessment made in accordance with the provisions of section 7 or section 8 shall not be questioned in any Court.

(*2*) Any owner of a mill who is aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section (*1*) of that section, apply to the Local Government for the cancellation or modification of the assessment and, on such application, the Local Government may cancel or modify the assess-

[1] General Acts, Vol. II.

ment and order the refund to such owner of the whole or part, as the case may be, of any amount paid thereunder.

(*3*) Any sum recoverable under section 7 may be recovered as an arrear of land revenue.

Power to inspect mills and take copies of records and accounts.

10. (*1*) The Collector or any officer empowered by general or special order of the Local Government in this behalf shall have free access at all reasonable times during working hours to any mill or to any part of any mill.

(*2*) The Collector or any such officer may at any time, with or without notice to the owner, examine the working records, sale records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder.

(*3*) Where any officer other than the Collector proposes to examine under sub-section (*2*) any record or account containing the description or formulæ of any trade process, the owner of the mill may give to the said officer, for transmission to the Collector, a written notice of objection and the officer shall thereupon seal up the record or account pending the orders of the Collector.

Information acquired to be confidential.

11. (*1*) All such copies and extracts and all information acquired by a Collector or any other officer from an inspection of any mill or warehouse or from any return submitted under this Act shall be treated as confidential.

(*2*) If the Collector or any such officer discloses to any person other than a superior officer any such information as aforesaid without the previous sanction of the Local Government, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine:

Provided that nothing in this section shall apply to the disclosure of any such information for the purposes of a prosecution in respect of the making of a false return under this Act.

Application of proceeds of cess.

12. (*1*) On the last day of each month, or as soon thereafter as may be convenient, the proceeds of the cess recovered during that month shall, after deduction of the expenses, if any, of collection and recovery, be paid to the Committee.

(*2*) Subject to such conditions as may be prescribed, the said proceeds and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as it may, with the previous approval of the Governor General in Council, decide to undertake for promoting agricultural and technological research in the interests of the cotton industry in India.

Validation.

13. No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee or the Standing Finance Sub-Committee, if any.

Dissolution of Committee.

14. The Governor General in Council may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty and this Act shall be deemed to have been repealed.

Power of the Governor General in Council to make rules.

15. (*1*) The Governor General in Council may make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) for prescribing the time within which nominations shall be made under section 4 whether in the first instance or on the occurrence of vacancies;

(*b*) for prescribing the term of office of the members of the Committee;

(*c*) for prescribing the circumstances in which and the authority by which any member may be removed;

(*d*) for the holding of a minimum number of meetings of the Committee during any year;

(*e*) for the maintenance by the Committee of a record of all business transacted and the submission of copies of such records to the Governor General in Council;

(*f*) for the definition of the powers of the Committee and of the Secretary to enter into contracts which shall be binding on the Committee, and the manner in which such contracts shall be executed;

(*g*) for the regulation of the travelling allowances of members of the Committee and of their remuneration, if any;

(*h*) for the definition of the powers of the Committee and the Secretary in respect of the appointment, promotion and dismissal of officers and servants of the Committee, and in respect of the creation and abolition of appointments of such officers or servants;

(*i*) for the regulation of the grant of pay and leave to officers and servants of the Committee, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted;

(*j*) for the regulation of the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Committee;

(*k*) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Committee, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers and servants, other than Government servants whose services have been lent or transferred to the Committee;

(*l*) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Committee and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published;

(*m*) for defining the powers of the Committee, the Standing Finance Sub-Committee, if any, the President and the Secretary, respectively, in regard to the expenditure of the funds of the Committee, whether provision has or has not been made in the budget estimates or by reappropriation for such expenditure, and in regard to the reappropriation of estimated savings in the budget estimates of expenditure;

(*n*) for prescribing the maintenance of accounts of the receipts and expenditure of the Committee and providing for the audit of such accounts;

(*o*) for prescribing the manner in which payments are to be made by or on behalf of the Committee, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Committee shall be signed;

(*p*) for determining the custody in which the current account of the Committee shall be kept, and the bank or banks at which surplus monies at the credit of the Committee may be deposited at interest, and the conditions on which such monies may be otherwise invested;

(*q*) for prescribing the preparation of a statement showing the sums allotted to Provincial Departments of Agriculture or institutions not under the direct control of the Committee for expenditure on research, the actual expenditure incurred, the outstanding liabilities, if any, and the disposal of unexpended balances at the end of the year;

(*r*) the assessment, levy, and payment of the cotton cess in respect of cotton exported by sea; and

(*s*) any other matter which is to be or may be prescribed.

Power of the Committee to make rules.

16. The Committee may, with the previous sanction of the Governor General in Council, make rules consistent with this Act and with any rules made under section 15 to provide for all or any of the following matters, namely:—

(*a*) for the appointment of a Standing Finance Sub-Committee and the delegation thereto of any powers exercisable under this Act by the Committee;

(*b*) for prescribing the method of appointment, removal and replacement and the term of office of members of the Standing Finance Sub-Committee, and for the filling of vacancies therein;

(*c*) for the appointment of the dates, times and places for meetings of the Committee and the Standing Finance Sub-Committee, and for regulating the procedure to be observed at such meetings;

(*d*) for determining the circumstances in which security may be demanded from officers and servants of the Committee, and the amount and nature of such security in each case;

(*e*) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund and the conditions on which such payments shall relieve the fund from further liability;

(*f*) for determining the contribution, if any, payable from the funds of the Committee to the provident fund;

(*g*) for regulating generally all matters incidental to the provident fund and the investment thereof;

(*h*) for defining the powers and duties of the Secretary of the Committee.

Publication of rules.

17. All rules made under section 15 or section 16 shall be published in the Gazette of India and, on such publication, shall have effect as if enacted in this Act.

ACT No. XV OF 1923.[1]

[*16th March, 1923.*]

An Act to amend the Indian Income-tax Act, 1922.

WHEREAS it is expedient to amend the [2]Indian Income-tax Act, 1922; It is hereby enacted as follows:— XI of 1922.

Short title.

1. This Act may be called the Indian Income-tax (Amendment) Act, 1923.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 114.
[2] *Supra.*

Amendment of section 7, Act XI of 1922.

2. To sub-section (*1*) of section 7 of the [1]Indian Income-tax Act, XI of 1922. 1922 (hereinafter referred to as the said Act), the following *Explanation* shall be added, namely:—

[*Vide* p. 310, *supra*.]

Amendment of section 68, Act XI of 1922.

3. (*1*) In section 68 of the said Act, in the second proviso,—

(*a*) for the words and figures "to all assessments made under that Act in the year ending on the thirty-first day of March, 1922," the following shall be substituted, namely:—

[*Vide* p. 334, *supra*.]

and

(*b*) for the words and figures "section 19 of the said Act" the words "that section" shall be substituted.

(*2*) The amendments made in the said Act by sub-section (*1*) shall have effect as if they had been made on the first day of April, 1922.

ACT No. XVI OF 1923.[2]

[*16th March, 1923.*]

An Act further to amend the Government Savings Banks Act, 1873.

WHEREAS it is expedient further to amend the [3]Government Savings V of 1873. Banks Act, 1873; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Government Savings Banks (Amendment) Act, 1923.

Amendment of section 3, Act V of 1873.

V of 1873. **2.** In section 3 of the [3]Government Savings Banks Act, 1873 (hereinafter referred to as the said Act), for the definition of "Secretary" the following shall be substituted, namely:—

"'Secretary' means, in the case of a Post Office Savings Bank, the Postmaster-General appointed for the area in which the Savings Bank is situate."

Substitution of new section for section 4, Act V of 1873.

3. For section 4 of the said Act the following section shall be substituted, namely:—

Payment on death of depositor.

"4. If a depositor dies and probate of his will or letters of administration of his estate or a certificate granted under

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[1] *Supra.*

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 108.

[3] General Acts, Vol. II.

the [1]Succession Certificate Act, 1889, is not within three months of the death of the depositor produced to the Secretary of the Government Savings Bank in which the deposit is, then— VII of 1889.

(*a*) if the deposit does not exceed three thousand rupees, the Secretary may pay the same to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, or

(*b*) if the deposit does not exceed one hundred rupees, any officer employed in the management of a Government Savings Bank, who is empowered in this behalf by a general or special order of the Governor General in Council, may, subject to any general or special orders of the Secretary in this behalf, pay the deposit to any person appearing to him to be entitled to receive it or to administer the estate."

Amendment of sections 6 and 7, Act V of 1873.

4. In sections 6 and 7 of the said Act, after the words " Secretary of any such Bank " the words " or any officer empowered under section 4 " shall be inserted.

ACT No. XVII OF 1923.[2]

[*16th March, 1923.*]

An Act to amend section 29 of the Prisoners Act, 1900.

WHEREAS it is expedient to amend section 29 of the [3]Prisoners Act, 1900; It is hereby enacted as follows:— III of 1900.

Short title.

1. This Act may be called the Prisoners (Amendment) Act, 1923.

2. In section 29 of the [3]Prisoners Act, 1900,— III of 1900.

(*a*) to sub-section (*1*) after the words " British India " the words " or to any prison in Berar " shall be added; and

(*b*) to sub-section (*2*) the following words shall be added, namely:—

" or, in the case of a prisoner so confined in a prison in the Central Provinces, for his removal to any other prison in the Province or to any prison in Berar."

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[1] General Acts, Vol. IV.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 106.
[3] General Acts, Vol. V.

ACT No. XVIII OF 1923[1].

[*2nd April, 1923.*]

An Act further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870.

WHEREAS it is expedient further to amend the [2]Code of Criminal Procedure, 1898, and the [3]Court-fees Act, 1870; It is hereby enacted as follows:—

V of 1898. VII of 1870.

Short title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1923.

V of 1898.

Amendment of section 10, Code of Criminal Procedure, 1898.

2. In section 10 of the [2]Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),—

(*i*) in sub-section (*2*), the words "for a period not exceeding six months" shall be omitted, and after the words "under this Code" the words "or under any other law for the time being in force," shall be inserted; and

(*ii*) after sub-section (*2*) the following sub-section shall be added, namely:—

"(*3*) For the purposes of sections 192, sub-section (*1*), 407, sub-section (*2*), and 528, sub-sections (*2*) and (*3*), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate."

Amendment of section 18, Code of Criminal Procedure, 1898.

3. After sub-section (*2*) of section 18 of the said Code the following sub-sections shall be added, namely:—

"(*3*) A Presidency Magistrate may be appointed under this section for such term as the Local Government may, by general or special order, direct.

(*4*) The Local Government may appoint any person to be an Additional Chief Presidency Magistrate, and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or under any other law for the time being in force, as the Local Government may direct."

Amendment of section 21, Code of Criminal Procedure, 1898.

4. In sub-section (*2*) of section 21 of the said Code, after the words "Presidency Magistrates" the words "including Additional Chief Presidency Magistrates" shall be inserted.

Amendment of section 29, Code of Criminal Procedure, 1898.

5. In sub-section (*2*) of section 29 of the said Code, after the words "High Court or" the words "subject as aforesaid" shall be inserted.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 35; and for Report of Joint Committee, *see ibid*, 1922, Pt. V, p. 256.

[2] General Acts, Vol. V.

[3] General Acts, Vol. II.

Insertion of new section 29B in the Code of Criminal Procedure, 1898.

6. Before section 30 of the said Code the following section shall be inserted, namely:—

Jurisdiction in the case of juveniles.

"29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the Local Government to exercise the powers conferred by section 8, sub-section (*1*), of the [1]Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby." VIII of 1897.

Amendment of section 35, Code of Criminal Procedure, 1898.

7. (*1*) In section 35 of the said Code,—

(*i*) in sub-section (*1*), for the words "When a person is convicted at one trial of two or more distinct offences, the Court may," the following shall be substituted, namely:—

"When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the [2]Indian Penal Code"; and XLV of 1860.

(*ii*) in sub-section (*3*), for the word "aggregate" the words "the aggregate of consecutive" shall be substituted.

(*2*) The *Explanation* and *Illustration* to this section are hereby repealed.

Amendment of section 40, Code of Criminal Procedure, 1898.

8. In section 40 of the said Code, for the word "transferred," in both places where it occurs, the word "appointed" shall be substituted, and the words "continue to" shall be omitted, and for the words "to which" the words "in which" shall be substituted.

Amendment of section 45, Code of Criminal Procedure, 1898.

9. In section 45 of the said Code,—

(*i*) in sub-section (*1*),—

(*a*) after the word "occupier," where it occurs for the second time, the words "in charge of the management of that land" shall be inserted, and for the word "obtain" the word "possess" shall be substituted;

(*b*) to clause (*d*), after the words "suspicious circumstances," the following words shall be added, namely:—

"or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable

[1] General Acts, Vol. IV.
[2] General Acts, Vol. I.

suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;" and

(*c*) in clause (*e*), after the word "namely," the figures "231, 232, 233, 234, 235, 236, 237, 238," shall be inserted, and for the word and figures "and 460" the figures, letters and word "460, 489A, 489B, 489C and 489D" shall be substituted; and

(*ii*) in sub-section (*3*), after the words "District Magistrate," the words "or Sub-divisional Magistrate" shall be inserted; after the word "persons" the words "with his or their consent" shall be inserted; and for the words "to be village-headman for the purposes of this section in any village for which there is no such headman appointed under any other law" the following shall be substituted, namely:—

"to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law."

Amendment of section 54, Code of Criminal Procedure, 1898.

10. In sub-section (*1*) of section 54 of the said Code, in clause *fourthly*, for the word "or" the word "and" shall be substituted, and to the same sub-section the following clause shall be added, namely:—

"*ninthly*, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition."

Amendment of section 59, Code of Criminal Procedure, 1898.

11. In sub-section (*1*) of section 56 of the said Code, after the words "police-station" the words "or any police-officer making an investigation under Chapter XIV" shall be inserted, and to the same sub-section the following shall be added, namely:—

"The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order."

Amendment of section 59, Code of Criminal Procedure, 1898.

12. For sub-section (*1*) of section 59 of the said Code the following sub-section shall be substituted, namely:—

"(*1*) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a police-officer, take

such person or cause him to be taken in custody to the nearest police-station."

Amendment of section 88, Code of Criminal Procedure, 1898.

13. (*1*) After sub-section (*6*) of section 88 of the said Code the following sub-sections shall be inserted, namely:—

"(*6A*) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(*6B*) Claims or objections under sub-section (*6A*) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (*2*), in the Court of such Magistrate.

(*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.

(*6D*) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (*6A*) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

(*6E*) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment."

(*2*) In sub-section (*7*) of the same section, after the words "date of the attachment" the words "and until any claim preferred or objection made under sub-section (*6A*) has been disposed of under that sub-section" shall be inserted.

Amendment of section 103, Code of Criminal Procedure, 1898.

14. (*1*) To sub-section (*1*) of section 103 of the said Code, after the words "witness the search," the following shall be added, namely:—

"and may issue an order in writing to them or any of them so to do."

(*2*) After sub-section (*4*) of the same section the following sub-section shall be added, namely:—

"(*5*) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the [1]Indian Penal Code."

XLV of 1860.

Amendment of section 106, Code of Criminal Procedure, 1898.

15. In section 106 of the said Code,—

(*i*) in sub-section (*1*), for the word "rioting" the following words shall be substituted, namely:—"any offence punishable under Chapter VIII of the [1]Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of" and the words "or of assembling armed men or taking other unlawful measures with the evident intention of committing the same," shall be omitted; and

XLV of 1860.

(*ii*) in sub-section (*3*), after the words "Appellate Court" the words "including a Court hearing appeals under section 407", shall be inserted.

Amendment of section 107, Code of Criminal Procedure, 1898.

16. (*1*) In sub-section (*1*) of section 107 of the said Code, after the words "the Magistrate," where they first occur, the words "if in his opinion there is sufficient ground for proceeding" shall be inserted.

(*2*) In sub-section (*4*) of the same section, for the words "this section" the word, figure and brackets "sub-section (*3*)" shall be substituted, and for the words "until the completion of the inquiry hereinafter prescribed" the words "pending further action by himself under this Chapter" shall be substituted.

Amendment of section 108, Code of Criminal Procedure, 1898.

17. In section 108 of the said Code, after the words "in writing" the words "or in any other manner intentionally" shall be inserted; after the words "such Magistrate" the words "if in his opinion there is sufficient ground for proceeding" shall be inserted; for the words "or printed or published" the words "and edited, printed and published" shall be substituted; and after the figures "1867," the words "with reference to any matter contained in such publication" shall be inserted.

Amendment of section 110, Code of Criminal Procedure, 1898.

18. In section 110 of the said Code,—

(*i*) in clause (*a*), the word "or," where it first occurs, shall be omitted, and after the word "thief" the words "or forger," shall be inserted; and

(*ii*) for clause (*d*) the following clause shall be substituted, namely:—

"(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating

[1] General Acts, Vol. I.

or mischief, or any offence punishable under Chapter XII of the [1]Indian Penal Code, or under section 489A, section 489B, section 489C or section 489D of that Code, or ". XLV of 1860.

Amendment of section 117, Code of Criminal Procedure, 1898.

19. In section 117 of the said Code,—

(*i*) after sub-section (*2*) the following sub-section shall be inserted, namely:—

" (*3*) Pending the completion of the inquiry under sub-section (*1*), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:

Provided that—

(*a*) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and

(*b*) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112 ";

(*ii*) sub-section (*3*) shall be re-numbered (*4*), and after the words " habitual offender " in the said sub-section, the words " or is so desperate and dangerous as to render his being at large without security hazardous to the community " shall be inserted; and

(*iii*) sub-section (*4*) shall be re-numbered (*5*).

Substitution of new section for section 122, Code of Criminal Procedure, 1898.

20. For section 122 of the said Code the following section shall be substituted, namely:—

Power to reject sureties.

" 122. (*1*) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond:

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness

[1] General Acts, Vol. I.

of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(*2*) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in making the inquiry, record the substance of the evidence adduced before him.

(*3*) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (*1*), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing:

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him."

Amendment of section 123, Code of Criminal Procedure, 1898.

21. (*1*) After sub-section (*3*) of section 123 of the said Code the following sub-sections shall be inserted, namely:—

" (*3A*) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge or the High Court under sub-section (*2*), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (*2*) and (*3*) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(*3B*) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (*2*) or sub-section (*3A*) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings."

(*2*) In sub-section (*6*) of the same section, for the word " may " the following words shall be substituted, namely:—

" shall, where the proceedings have been taken under section 108 or section 109, be simple and, where the proceedings have been taken under section 110".

Amendment of section 124, Code of Criminal Procedure, 1898.

22. In section 124 of the said Code,—

(*i*) in sub-section (*1*), the words " whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate," shall be omitted;

(*ii*) for sub-section (*3*) the following sub-section shall be substituted, namely:—

"(*3*) An order under sub-section (*1*) may direct the discharge of such person either without conditions or upon any conditions which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired "; and

(*iii*) after sub-section (*3*) the following sub-sections shall be inserted, namely:—

"(*4*) The Local Government may prescribe the conditions upon which a conditional discharge may be made.

(*5*) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate or Chief Presidency Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(*6*) When a conditional order of discharge has been cancelled under sub-section (*5*), such person may be arrested by any police-officer without warrant, and shall thereupon be produced before the District Magistrate or Chief Presidency Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge, and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor."

Amendment of section 126, Code of Criminal Procedure, 1898.

23. Sub-section (*3*) of section 126 of the said Code shall be re-numbered section 126A, and in that section, as re-numbered, for the words "When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond" the following shall be substituted, namely:—

"When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (*3*) of section 122 or under section 126, sub-section (*2*), appears or is brought before him, the Magistrate shall cancel the bond executed by such person."

24. For section 133 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 133, Code of Criminal Procedure, 1898.

"133. (*1*) Whenever a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit, Conditional order for removal of nuisance.

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

to fence such tank, well or excavation, as the case may be; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do,

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(*2*) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A ' public place ' includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes."

Amendment of section 135, Code of Criminal Procedure, 1898.

25. In section 135 of the said Code, in clause (*a*), after the words " within the time " the words " and in the manner " shall be inserted.

Insertion of new section 139A in the Code of Criminal Procedure, 1898.

26. After section 139 of the said Code the following section shall be inserted, namely:—

Procedure where existence of public right is denied.

" 139A. (*1*) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and, if he does so, the Magistrate shall, before proceeding under section 137 or section 138, inquire into the matter.

(*2*) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require.

(*3*) A person who has, on being questioned by the Magistrate under sub-section (*1*), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed

to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138."

Amendment of section 144, Code of Criminal Procedure, 1898.

27. In section 144 of the said Code,—

(*i*) in sub-section (*1*), after the words " or of any other Magistrate " the words and brackets " (not being a Magistrate of the third class) " shall be inserted, and after the words " under this section " the words " there is sufficient ground for proceeding under this section and " shall be inserted;

(*ii*) in sub-section (*4*), after the word " may " the words " either on his own motion or on the application of any person aggrieved " shall be inserted; and

(*iii*) sub-section (*5*) shall be re-numbered as sub-section (*6*), and the following shall be inserted as sub-section (*5*), namely:—

" (*5*) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and shewing cause against the order; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing."

Amendment of section 145, Code of Criminal Procedure, 1898.

28. In section 145 of the said Code,

(*i*) in sub-section (*4*), for the words " receive the evidence " the words " receive all such evidence as may be " shall be substituted;

(*ii*) in sub-section (*6*), after the word " was " the words " or should under the first proviso to sub-section (*4*) be treated as being " shall be inserted, and the following shall be added after the words " such eviction," namely:—

" and when he proceeds under the first proviso to sub-section (*4*), may restore to possession the party forcibly and wrongfully dispossessed ";

(*iii*) for sub-section (*7*) the following sub-section shall be substituted, namely:—

" (*7*) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding, and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto ";

and

(*iv*) after sub-section (*7*) the following sub-sections shall be added, namely:—

" (*8*) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section

pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(*9*) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(*10*) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107."

Amendment of section 146, Code of Criminal Procedure, 1898.

29. (*1*) To sub-section (*1*) of section 146 of the said Code the following proviso shall be added, namely:—

" Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute."

(*2*) In sub-section (*2*) of the same section, after the words " thinks fit " the words " and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court " shall be inserted, and to the same sub-section the following proviso shall be added, namely:—

" Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged."

Substitution of new section for section 147, Code of Criminal Procedure, 1898.

30. For section 147 of the said Code the following section shall be substituted, namely:—

Disputes concerning rights of use of immoveable property, etc.

" 147. (*1*) Whenever any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (*2*) (whether such right be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.

(*2*) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(*3*) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(*4*) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction."

Amendment of section 148, Code of Criminal Procedure, 1898.

31. In sub-section (*3*) of section 148 of the said Code, the words " for witnesses, or pleaders' fees, or both," shall be omitted, and for the words " All costs so directed to be paid may be recovered as if they were fines " the words " Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable " shall be substituted.

Amendment of section 157, Code of Criminal Procedure, 1898.

32. In section 157 of the said Code,—

(*i*) in sub-section (*1*), after the words " one of his subordinate officers " the words " not being below such rank as the Local Government may, by general or special order, prescribe in this behalf " shall be inserted, and for the words " and to take such measures as may be necessary," the words " and, if necessary, to take measures " shall be substituted; and

(*ii*) to sub-section (*2*), after the words " that sub-section " the words " and, in the case mentioned in clause (*b*), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Local Government, the fact that he will not investigate the case or cause it to be investigated " shall be added.

Amendment of section 161, Code of Criminal Procedure, 1898.

33. In sub-section (*1*) of section 161 of the said Code, after the word " Chapter " the words " or any police-officer not below such rank as the Local Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer " shall be inserted.

Amendment of section 162, Code of Criminal Procedure, 1898.

34. For sub-section (*1*) of section 162 of the said Code the following sub-section shall be substituted, namely:—

Statements to police not to be signed

" (*1*) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be

use of such statements in evidence.

signed by the person making it; nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall, on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the [1]Indian Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination: I of 1872.

Provided, further, that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused."

Amendment of section 164, Code of Criminal Procedure, 1898.

35. In section 164 of the said Code,—

(*i*) in sub-section (*1*), for the words " Every Magistrate not being a police-officer may " the words " Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Local Government may, if he is not a police-officer " shall be substituted; and

(*ii*) in sub-section (*3*),—

(*a*) for the words " No Magistrate " the following words shall be substituted, namely:—

" A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate ";

and

(*b*) for the words " I believe " the following words shall be substituted, namely:—

" I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he

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may make may be used as evidence against him and I believe ".

36. In section 165 of the said Code,— Amendment of section 165, Code of Criminal Procedure, 1898.

(*i*) for sub-sections (*1*) and (*2*) the following sub-sections shall be substituted, namely:—

" (*1*) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(*2*) A police-officer proceeding under sub-section (*1*) shall, if practicable, conduct the search in person ";

(*ii*) in sub-section (*3*), after the words " he may " the words " after recording in writing his reasons for so doing " shall be inserted, and for the words " specifying the document or thing for which search is to be made and the place to be searched " the words " specifying the place to be searched and, so far as possible, the thing for which search is to be made " shall be substituted;

(*iii*) in sub-section (*4*), after the words " search warrants " the words " and the general provisions as to searches contained in section 102 and section 103 " shall be inserted; and

(*iv*) after sub-section (*4*) the following sub-section shall be added, namely:—

" (*5*) Copies of any record made under sub-section (*1*) or sub-section (*3*) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate:

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost."

37. (*1*) In sub-section (*1*) of section 166 of the said Code, after the words " An officer in charge of a police-station " the words " or a police-officer not being below the rank of sub-inspector making an investigation " shall be inserted. Amendment of section 166, Code of Criminal Procedure, 1898.

(*2*) After sub-section (*2*) of the same section the following sub-sections shall be added, namely:—

" (*3*) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (*1*) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police-station, in accordance with the provisions of section 165, as if such place were within the limits of his own station.

(*4*) Any officer conducting a search under sub-section (*3*) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (*1*) and (*3*).

(*5*) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (*4*):

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost."

Amendment of section 167, Code of Criminal Procedure, 1898.

38. In section 167 of the said Code,—

(*i*) in sub-section (*1*),—

(*a*) for the words " it appears that any " the words " any person is arrested and detained in custody, and it appears that the " shall be substituted, and the words " under this Chapter " shall be omitted;

(*b*) after the words " officer in charge of the police-station " the words " or the police-officer making the investigation if he is not below the rank of sub-inspector " shall be inserted; and

(*c*) the words and brackets " (if any) " shall be omitted; and

(*ii*) to sub-section (*2*), after the words " such jurisdiction ", the following proviso shall be added, namely:—

" Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Local Government shall authorise detention in the custody of the police."

39. In section 169 of the said Code, after the words "officer in charge of the police-station" the words "or to the police-officer making the investigation" shall be inserted. Amendment of section 169, Code of Criminal Procedure, 1898.

40. (*1*) For sub-section (*1*) of section 173 of the said Code, the following sub-section shall be substituted, namely:— Amendment of section 173, Code of Criminal Procedure, 1898.

"(*1*) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall—

(*a*) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties, and

(*b*) communicate, in such manner as may be prescribed by the Local Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given."

(*2*) After sub-section (*3*) of the same section the following sub-section shall be inserted, namely:—

"(*4*) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost."

41. In sub-section (*5*) of section 174 of the said Code, for the words "or Sub-divisional Magistrate," the words "Sub-divisional Magistrate or Magistrate of the first class," shall be substituted. Amendment of section 174, Code of Criminal Procedure, 1898.

42. For sub-section (*3*) of section 181 of the said Code the following sub-section shall be substituted, namely:— Amendment of section 181, Code of Criminal Procedure, 1898. Theft.

"(*3*) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen."

Substitution of new section for section 185, Code of Criminal Procedure, 1898.

43. For section 185 of the said Code the following section shall be substituted, namely:—

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

"185. (*1*) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court.

(*2*) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence, the High Court, within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced, may direct the trial of such offender to be held in any Court subordinate to it, and if it so decides, all other proceedings against such person in respect of such offence shall be discontinued. If such High Court, upon the matter having been brought to its notice, does not so decide, any other High Court, within the local limits of whose appellate criminal jurisdiction such proceedings are pending, may give a like direction, and upon its so doing all other such proceedings shall be discontinued."

Amendment of section 188, Code of Criminal Procedure, 1898.

44. In the first proviso to section 188 of the said Code, after the words "Provided that" the words "notwithstanding anything in any of the preceding sections of this Chapter" shall be inserted.

Amendment of section 190, Code of Criminal Procedure, 1898.

45. For clause (*b*) of sub-section (*1*) of section 190 of the said Code the following clause shall be substituted, namely:—

"(*b*) upon a report in writing of such facts made by any police-officer".

Amendment of section 193, Code of Criminal Procedure, 1898.

46. In sub-section (*2*) of section 193 of the said Code, the words "in the case of Assistant Sessions Judges" shall be omitted.

Amendment of section 195, Code of Criminal Procedure, 1898.

47. (*1*) For sub-section (*1*) of section 195 of the said Code the following sub-section shall be substituted, namely:—

"(*1*) No Court shall take cognizance—

Prosecution for contempt of lawful authority of public servants.

(*a*) of any offence punishable under sections 172 to 188 of the [1]Indian Penal Code except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate; XLV of 1860.

Prosecution for certain offences against public justice.

(*b*) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have

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been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate; or

(*c*) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate."

Prosecution for certain offences relating to documents given in evidence.

(*2*) In sub-section (*2*) of the same section, for the word " means " the word " includes " shall be substituted.

(*3*) Sub-sections (*4*), (*5*) and (*6*) of the same section shall be omitted.

(*4*) Sub-sections (*7*) and (*3*) of the same section shall be re-numbered (*3*) and (*4*), respectively, and for sub-section (*3*), as re-numbered, the following sub-section shall be substituted, namely:—

" (*3*) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate:

Provided that—

(*a*) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate; and

(*b*) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed."

(*5*) After sub-section (*4*) of the same section, as re-numbered, the following sub-section shall be inserted, namely:—

" (*5*) Where a complaint has been made under sub-section (*1*), clause (*a*), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court no further proceedings shall be taken on the complaint."

48. In the proviso to section 196A of the said Code, for the figure and brackets " (*3*) " the figure and brackets " (*4*) " shall be substituted.

Amendment of section 196A, Code of Criminal Procedure, 1898.

Insertion of new section 196B in the Code of Criminal Procedure, 1898.

49. After section 196A of the said Code the following section shall be inserted, namely:—

Preliminary inquiry in certain cases.

"196B. In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate or Chief Presidency Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (*3*)."

Amendment of section 197, Code of Criminal Procedure, 1898.

50. In section 197 of the said Code,—

(*i*) for sub-section (*1*) the following sub-section shall be substituted, namely:—

"(*1*) When any person who is a Judge within the meaning of section 19 of the [1]Indian Penal Code, or when any Magistrate, or when any XLV of 1860 public servant who is not removable from his office save by or with the sanction of a Local Government or some higher authority, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Local Government;" and

(*ii*) in sub-section (*2*), after the word "Judge" the word "Magistrate" shall be inserted.

Amendment of section 198, Code of Criminal Procedure, 1898.

51. To section 198 of the said Code the following proviso shall be added, namely:—

"Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf."

Amendment of section 199, Code of Criminal Procedure, 1898.

52. In section 199 of the said Code, after the word "absence" the words "made with the leave of the Court" shall be inserted, and to the same section the following proviso shall be added, namely:—

"Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf."

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53. In Chapter XV of the said Code, after section 199 the following section shall be inserted, namely:— Insertion of new section 199A in the Code of Criminal Procedure, 1898.

" **199A.** When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof." Objection by lawful guardian to complaint by person other than person aggrieved.

54. In section 200 of the said Code, the words and figures " Subject to the provisions of section 476 " shall be omitted, and after proviso (*a*) the following proviso shall be inserted, namely:— Amendment of section 200, Code of Criminal Procedure, 1898.

" (*aa*) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties."

55. In section 202 of the said Code,— Amendment of section 202, Code of Criminal Procedure, 1898.

(*i*) for sub-sections (*1*) and (*2*) the following sub-sections shall be substituted, namely:—

" (*1*) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police-officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint: Postponement for issue of process.

Provided that no such direction shall be made—

(*a*) unless the complainant has been examined on oath under the provisions of section 200, or

(*b*) where the complaint has been made by a Court under the provisions of this Code.

(*2*) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant "; and

(*ii*) after sub-section (*2*) the following sub-section shall be added, namely:—

" (*2A*) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath."

Amendment of section 203, Code of Criminal Procedure, 1898.

56. In section 203 of the said Code, for the words " after examining the complainant and considering the result of the investigation (if any) made under section 202 " the words " after considering the statement on oath (if any) of the complainant and the result of any investigation or inquiry under section 202 " shall be substituted.

Amendment of section 206, Code of Criminal Procedure, 1898.

57. In sub-section (*1*) of section 206 of the said Code, after the words " or any Magistrate " the words and brackets " (not being a Magistrate of the third class) " shall be inserted.

Amendment of section 210, Code of Criminal Procedure, 1898.

58. In sub-section (*2*) of section 210 of the said Code, for the words " the charge " the words " such charge " shall be substituted.

Amendment of section 215, Code of Criminal Procedure, 1898.

59. In section 215 of the said Code, the words and figures " or by a Court of Session under section 477 " shall be omitted.

Amendment of section 219, Code of Criminal Procedure, 1898.

60. (*1*) In sub-section (*1*) of section 219 of the said Code, for the words " The Magistrate " the words " The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206 " shall be substituted.

(*2*) In sub-section (*2*) of the same section, for the words " if the accused so require, be given to him free of cost " the words " be given to the accused free of cost " shall be substituted.

Amendment of section 221, Code of Criminal Procedure, 1898.

61. In sub-section (*7*) of section 221 of the said Code,—

(*i*) for the words " has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award," the following shall be substituted, namely:—

" having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence," and

(*ii*) for the words " is omitted " the words " has been omitted " shall be substituted.

Amendment of section 234, Code of Criminal Procedure, 1898.

62. In section 234 of the said Code,—

(*i*) in sub-section (*1*), after the words " such offences " the words " whether in respect of the same person or not " shall be inserted; and

(*ii*) to sub-section (*2*) the following proviso shall be added, namely:—

" Provided that, for the purpose of this section, an offence punishable under section 379 of the [1]Indian Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the [1]Indian Penal Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence."

XLV of 1860.

XLV of 1860.

Amendment of section 237, Code of Criminal Procedure, 1898.

63. Sub-section (*2*) of section 237 of the said Code shall be omitted.

Amendment of section 238, Code of Criminal Procedure, 1898.

64. After sub-section (*2*) of section 238 of the said Code the following sub-section shall be inserted, namely:—

" (*2A*) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged."

Substitution of new section for section 239, Code of Criminal Procedure, 1898.

65. For section 239 of the said Code the following section shall be substituted, namely:—

What persons may be charged jointly.

" 239. The following persons may be charged and tried together, namely:—

(*a*) persons accused of the same offence committed in the course of the same transaction;

(*b*) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;

(*c*) persons accused of more than one offence of the same kind within the meaning of section 234 committed by them jointly within the period of twelve months;

(*d*) persons accused of different offences committed in the course of the same transaction;

(*e*) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or

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concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

(*f*) persons accused of offences under sections 411 and 414 of the [1]Indian Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence; and XLV of 1860.

(*g*) persons accused of any offence under Chapter XII of the [1]Indian Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; XLV of 1860.

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges."

Amendment of section 243, Code of Criminal Procedure, 1898.

66. In section 243 of the said Code, for the words " shall convict " the words " may convict " shall be substituted.

Amendment of section 244, Code of Criminal Procedure, 1898.

67. In section 244 of the said Code,—

(*i*) in sub-section (*1*), before the words " If the accused " the words " If the Magistrate does not convict the accused under the preceding section or " shall be inserted, and to the same sub-section the following proviso shall be added, namely:—

" Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court "; and

(*ii*) in sub-section (*2*), for the words " process to compel the attendance of any witness or the production of " the words " a summons to any witness directing him to attend or to produce " shall be substituted.

Amendment of section 245, Code of Criminal Procedure, 1898.

68. For sub-section (*2*) of section 245 of the said Code the following shall be substituted, namely:—

" (*2*) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law."

Amendment of section 250, Code of Criminal Procedure, 1898.

69. In section 250 of the said Code,—

(*i*) for sub-sections (*1*) and (*2*) the following sub-sections shall be substituted, namely:—

False, frivolous or vexatious accusations.

" (*1*) If, in any case instituted upon complaint or upon information given to a police-officer or to a Magistrate, one or more persons is or are

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accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(*2*) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(*2A*) The Magistrate may, by the order directing payment of the compensation under sub-section (*2*), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

(*2B*) When any person is imprisoned under sub-section (*2A*), the provisions of sections 68 and 69 of the [1]Indian Penal Code shall, so far as may be, apply. XLV of 1860.

(*2C*) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter";

(*ii*) in sub-section (*3*), for the word and figure "sub-section (*1*)" the word and figure "sub-section (*2*)" shall be substituted, and for the words "to an accused person" the following shall be substituted, namely:—

"or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees";

(*iii*) to sub-section (*4*) after the words "appeal has been decided" the following shall be added, namely:—

"and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order"; and

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(*iv*) sub-section (*5*) shall be omitted.

Amendment of section 252, Code of Criminal Procedure, 1898.

70. To sub-section (*1*) of section 252 of the said Code the following proviso shall be added, namely:—

"Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court."

Insertion of new section 255A in the Code of Criminal Procedure, 1898.

71. After section 255 of the said Code the following section shall be inserted, namely:—

Procedure in case of previous convictions.

"255A. In a case where a previous conviction is charged under the provisions of section 221, sub-section (*7*), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 255, sub-section (*2*), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon."

Amendment of section 256, Code of Criminal Procedure, 1898.

72. In sub-section (*1*) of section 256 of the said Code, after the words "to state" the words "at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith" shall be inserted.

Amendment of section 258, Code of Criminal Procedure, 1898.

73. For sub-section (*2*) of section 258 of the said Code the following sub-section shall be substituted, namely:—

"(*2*) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law."

Amendment of section 259, Code of Criminal Procedure, 1898.

74. In section 259 of the said Code, after the words "and the offence may be lawfully compounded" the words "or is not a cognizable offence" shall be inserted.

Amendment of section 261, Code of Criminal Procedure, 1898.

75. In section 261 of the said Code,—

(*i*) in clause (*a*), for the word and figures "and 447," the figures and word "447 and 504" shall be substituted; and

(*ii*) to clause (*b*), after the words "one month," the words "with or without fine" shall be added.

Amendment of section 266, Code of Criminal Procedure, 1898.

76. To section 266 of the said Code, after the words "for the purposes of this Chapter," the words "and of Chapter XVIII" shall be added.

Amendment of section 276, Code of Criminal Procedure, 1898.

77. In the third proviso to section 276 of the said Code, for the words "in the presidency-towns" the words "in a trial before any High Court in the town which is the usual place of sitting of such High Court" shall be substituted.

Amendment of section 288, Code of Criminal Procedure, 1898.

78. In section 288 of the said Code,—

(*i*) for the words " duly taken in the presence of the accused before the committing Magistrate " the words " duly recorded in the presence of the accused under Chapter XVIII " shall be substituted; and

(*ii*) after the words " as evidence in the case," the words " for all purposes subject to the provisions of the [1]Indian Evidence Act, 1872," shall be added.

I of 1872.

Substitution of new section for section 292, Code of Criminal Procedure, 1898.

79. For section 292 of the said Code the following section shall be substituted, namely:—

Prosecutor's right of reply.

" 292. The prosecutor shall be entitled to reply—

(*a*) if the accused or any of the accused adduces any oral evidence; or

(*b*) with the permission of the Court, on a point of law; or

(*c*) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence:

Provided that, in the case referred to in clause (*c*), the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced."

Amendment of section 306, Code of Criminal Procedure, 1898.

80. In sub-section (*2*) of section 306 of the said Code, after the word " shall " where it occurs for the second time, the words " unless he proceeds in accordance with the provisions of section 562 " shall be inserted.

Amendment of section 307, Code of Criminal Procedure, 1898.

81. In section 307 of the said Code,—

(*1*) in sub-section (*1*)—

(*i*) for the words " the accused " the words " any accused person " shall be substituted;

(*ii*) after the words " to submit the case " the words " in respect of such accused person " shall be inserted; and

(*iii*) after the words " considers to have been committed," the following shall be added, namely:—

" and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction "; and

(*2*) in sub-sections (*2*) and (*3*), for the words " the accused " wherever they occur, the words " such accused " shall be substituted.

[1] General Acts, Vol. II.

Amendment of section 309, Code of Criminal Procedure, 1898.

82. In section 309 of the said Code,—

(*i*) in sub-section (*1*), after the word "orally" the following shall be inserted, namely:—

"on all the charges on which the accused has been tried," and after the words "such opinion" the following shall be inserted, namely:—

"and for that purpose may ask the assessors such questions as are necessary to ascertain what their opinions are. All such questions and the answers to them shall be recorded"; and

(*ii*) in sub-section (*3*), after the word "shall" the words "unless he proceeds in accordance with the provisions of section 562" shall be inserted.

Substitution of new section for section 310, Code of Criminal Procedure, 1898.

83. For section 310 of the said Code the following section shall be substituted, namely:—

Procedure in case of previous conviction.

"310. In the case of a trial by a jury or with the aid of assessors when the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely:—

(*a*) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,

(*i*) he has been convicted of the subsequent offence, or

(*ii*) the jury have delivered their verdict, or the opinions of the assessors have been recorded, on the charge of the subsequent offence.

(*b*) In the case of a trial held with the aid of assessors, the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction."

Amendment of section 315, Code of Criminal Procedure, 1898.

84. In sub-section (*1*) of section 315 of the said Code, for the words "in each presidency-town" the words "in the town which is the usual place of sitting of each High Court" shall be substituted, and for the words "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries," the words "as many of those who are liable to serve on special or common juries respectively as the Clerk of the Crown considers necessary" shall be substituted.

85. In section 316 of the said Code, for the words " presidency-towns " the words " town which is the usual place of sitting of such High Court " shall be substituted. Amendment of section 316, Code of Criminal Procedure, 1898.

86. In section 337 of the said Code,— Amendment of section 337, Code of Criminal Procedure, 1898.

(*i*) for sub-section (*1*) the following sub-sections shall be substituted, namely:—

" (*1*) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section XLV of 1860. 211 of the [1]Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the XLV of 1860. [1]Indian Penal Code, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof:

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.

(*1A*) Every Magistrate who tenders a pardon under sub-section (*1*) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record:

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost ";

(*ii*) in sub-section (*2*), for the words " the case " the words " the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any," shall be substituted;

(*iii*) after sub-section (*2*) the following sub-section shall be inserted, namely:—

" (*2A*) In every case where a person has accepted a tender of pardon and has been examined under sub-section (*2*), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are

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reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be";

(*iv*) in sub-section (*3*), for the words "if not on bail" the words "unless he is already on bail" shall be substituted, and the words "by the Court of Session or High Court, as the case may be," shall be omitted; and

(*v*) sub-section (*4*) shall be omitted.

Amendment of section 339, Code of Criminal Procedure, 1898.

87. (*1*) In sub-section (*1*) of section 339 of the said Code, after the words and figures "section 338, and" the words "the Public Prosecutor certifies that in his opinion" shall be inserted; for the words "he may be" the words "such person may be" shall be substituted; and to the said sub-section the following proviso shall be added, namely:—

"Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made; in which case it shall be for the prosecution to prove that such conditions have not been complied with."

(*2*) In sub-section (*2*) of the same section, for the words "when the pardon has been forfeited under this section" the words "at such trial" shall be substituted.

Insertion of new section 339A in the Code of Criminal Procedure, 1898.

88. After section 339 of the said Code the following section shall be inserted, namely:—

Procedure in trial of person under section 339.

"339A. (*1*) The Court trying under section 339 a person who has accepted a tender of pardon shall—

(*a*) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (*1*), and

(*b*) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(*2*) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court with the aid of the assessors, or the Magistrate, as the case may be, shall, before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal."

89. For section 340 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 340, Code of Criminal Procedure, 1898.

"340. (*1*) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader. Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

(*2*) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings."

90. In section 345 of the said Code,— Amendment of section 345, Code of Criminal Procedure, 1898.

(*i*) in sub-section (*1*), for the word "described" the word "specified" shall be substituted, and to the table in that sub-section, after the entry relating to criminal intimidation, the following entry shall be added, namely:—

"Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed."

(*ii*) for sub-section (*2*) the following sub-section shall be substituted, namely:—

XLV of 1860. "(*2*) The offences punishable under the sections of the [1]Indian Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table:—

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining a person in secret . . .	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Dishonest misappropriation of property . . .	403	The owner of the property misappropriated.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.
Cheating by personation	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.

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Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark . .	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	Ditto.
Marrying again during the lifetime of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it is intended to insult or whose privacy is intruded upon."

(*iii*) in sub-section (*4*), for the words " a minor " the words " under the age of eighteen years or is " shall be substituted, and after the word " may " the words " with the permission of the Court " shall be inserted;

(*iv*) after sub-section (*5*) the following sub-section shall be inserted, namely:—

" (*5A*) A High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section "; and

(*v*) to sub-section (*6*), after the word " accused " the words " with whom the offence has been compounded " shall be added.

Amendment of section 347, Code of Criminal Procedure, 1898.

91. In sub-section (*1*) of section 347 of the said Code, the words " stop further proceedings and " shall be omitted.

Amendment of section 348, Code of Criminal Procedure, 1898.

92. (*1*) Section 348 of the said Code shall be re-numbered 348 (*1*), and in the said section, as re-numbered, after the word " shall " the words " if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused " shall be inserted, and for the words " before whom the proceedings are pending " the words " is competent to try the case and " shall be substituted.

(*2*) In the proviso to the same section, as re-numbered, for the words " the District Magistrate " the words " any Magistrate in the district " shall be substituted.

(*3*) To the same section, as re-numbered, the following sub-section shall be added, namely:—

" (*2*) When any person is committed to the Court of Session or High Court under sub-section (*1*), any other person accused jointly with him

in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209."

Amendment of section 349, Code of Criminal Procedure, 1898.

93. After sub-section (*1*) of section 349 the following sub-section shall be inserted, namely:—

"(*1A*) When more accused than one are being tried together, and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate."

Amendment of section 350, Code of Criminal Procedure, 1898.

94. To sub-section (*2*) of section 350 of the said Code, after the figures "346", the words "or in which proceedings have been submitted to a superior Magistrate under section 349" shall be added, and after the same sub-section the following sub-section shall be added, namely:—

"(*3*) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein and to be succeeded by the latter within the meaning of sub-section (*1*)."

Insertion of new section 350A in the Code of Criminal Procedure, 1898.

95. After section 350 of the said Code the following section shall be inserted, namely:—

Changes in constitution of Benches.

"350A. No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings."

Amendment of section 356, Code of Criminal Procedure 1898.

96. In section 356 of the said Code, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record."

Amendment of section 362, Code of Criminal Procedure, 1898.

97. In section 362 of the said Code,—

(*i*) in sub-section (*1*), for the words "in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he" the words "tried by a Presidency Magistrate in which an appeal lies, such Magistrate." shall be substituted;

(*ia*) after sub-section (*2*) the following sub-section shall be inserted:—

" (*2A*) In every case referred to in sub-section (*1*), the Magistrate shall make a memorandum of the substance of the examination of the accused. Such memorandum shall be signed by the Magistrate with his own hand, and shall form part of the record ";

(*ii*) to sub-section (*3*), after the word " sentence " the words " unless they are sentences of imprisonment ordered to run concurrently " shall be added; and

(*iii*) after sub-section (*3*) the following sub-section shall be added, namely:—

" (*4*) In cases other than those specified in sub-section (*1*), it shall not be necessary for a Presidency Magistrate to record the evidence or frame a charge."

Amendment of section 364, Code of Criminal Procedure, 1898.

98. In sub-section (*4*) of section 364 of the said Code, after the figures " 263 " the words and figures " or section 362, sub-section (*2A*)," shall be inserted.

Amendment of section 365, Code of Criminal Procedure, 1898.

99. In section 365 of the said Code, for the word " may " the word " shall " shall be substituted, and for the words " and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed " the words " and the evidence shall be taken down in accordance with such rule " shall be substituted.

Amendment of section 367, Code of Criminal Procedure, 1898.

100. In section 367 of the said Code,—

(*i*) in sub-section (*1*), after the words " presiding officer of the Court " the words " or from the dictation of such presiding officer " shall be inserted;

(*ii*) to the same sub-section the following words shall be added, namely:—

" and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him "; and

(*iii*) after sub-section (*5*) the following sub-section shall be added, namely:—

" (*6*) For the purposes of this section, an order under section 118 or section 123, sub-section (*3*), shall be deemed to be a judgment."

Amendment of section 369, Code of Criminal Procedure, 1898.

101. In section 369 of the said Code, for the words " No Court other than a High Court " the words " Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of a High Court established by Royal Charter, by the Letters Patent of such High Court, no Court " shall be substituted; and the words and figures " as provided in sections 395 and 484 or " shall be omitted.

102. For section 386 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 386, Code of Criminal Procedure, 1898.

" 386. (*1*) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may— Warrant for levy of fine.

(*a*) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender;

(*b*) issue a warrant to the Collector of the District authorising him to realise the amount by execution according to civil process against the moveable or immoveable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

(*2*) The Local Government may make rules regulating the manner in which warrants under sub-section (*1*), clause (*a*), are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(*3*) Where the Courts issue a warrant to the Collector under sub-section (*1*), clause (*b*), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the [1]Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly:

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Provided that no such warrant shall be executed by the arrest or detention in prison of the offender."

103. In section 387 of the said Code, for the words " Such warrant " the words " A warrant issued under section 386, sub-section (*1*), clause (*a*), by any Court " shall be substituted, and for the word " distress " the word " attachment " shall be substituted. Amendment of section 387, Code of Criminal Procedure, 1898.

104. In sub-section (*1*) of section 388 of the said Code,— Amendment of section 388, Code of Criminal Procedure, 1898.

(*i*) for the words " and the Court issues a warrant under section 386, it " the words " the Court " shall be substituted; and

(*ii*) for the words " on the day appointed for the return to such warrant, such day not being " the words " on a date not " shall be substituted.

[1] General Acts, Vol. VI.

Amendment of section 395, Code of Criminal Procedure, 1898.

105. In section 395 of the said Code,—

(*i*) in sub-section (*1*), after the words " twelve months " the words " or to a fine not exceeding five hundred rupees " shall be inserted; and

(*ii*) in sub-section (*2*), after the words " for a term " the words " or a fine of an amount " shall be inserted.

Amendment of section 397, Code of Criminal Procedure, 1898.

106. In section 397 of the said Code,—

(*i*) after the words " to which he has been previously sentenced " the words " unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence " shall be inserted; and

(*ii*) after the proviso the following further proviso shall be added, namely:—

" Provided, further, that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately."

Amendment of section 401, Code of Criminal Procedure, 1898.

107. In section 401 of the said Code,—

(*i*) to sub-section (*2*), after the words " together with his reasons for such opinion " the following words shall be added, namely:—

" and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists ";

(*ii*) after sub-section (*4*) the following sub-section shall be inserted, namely:—

" (*4A*) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property ";

(*iii*) in sub-section (*5*), for the words " Her Majesty " the words " His Majesty or of the Governor General when such right is delegated to him " shall be substituted; and

(*iv*) after sub-section (*5*) the following sub-section shall be inserted, namely:—

" (*5A*) Where a conditional pardon is granted by His Majesty or, in virtue of any powers delegated to him, by the Governor General, any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly ".

Amendment of section 402, Code of Criminal Procedure, 1898.

108. Section 402 of the said Code shall be re-numbered section 402 (*1*), and, to the said section, as re-numbered, the following sub-section shall be added, namely:—

" (*2*) Nothing in this section shall affect the provisions of section 54 or section 55 of the [1]Indian Penal Code." XLV of 1860.

[1] General Acts, Vol. I.

109. For section 406 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 406, Code of Criminal Procedure, 1898.

"406. Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order— Appeal from order requiring security for keeping the peace or for good behaviour.

(*a*) if made by a Presidency Magistrate, to the High Court;

(*b*) if made by any other Magistrate, to the Court of Session:

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session:

Provided, further, that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (*2*) or sub-section (*3A*) of section 123."

110. After section 406 of the said Code the following section shall be inserted, namely:— Insertion of new section 406A in the Code of Criminal Procedure, 1898.

"406A. Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order,— Appeal from order refusing to accept or rejecting a surety.

(*a*) if made by a Presidency Magistrate, to the High Court;

(*b*) if made by the District Magistrate, to the Court of Session; or

(*c*) if made by a Magistrate other than the District Magistrate, to the District Magistrate."

111. In sub-section (*1*) of section 407 of the said Code, after the figures "349" the words and figures "or in respect of whom an order has been made or a sentence has been passed under section 380" shall be inserted. Amendment of section 407, Code of Criminal Procedure, 1898.

112. In section 408 of the said Code,— Amendment of section 408, Code of Criminal Procedure, 1898.

(*i*) after the figures "349" the words and figures "or in respect of whom an order has been made or a sentence has been passed under section 380" shall be inserted; and

(*ii*) in clause (*b*) of the proviso, after the word "appeal" the following words shall be inserted, namely:—

"of all or any of the accused convicted at such trial.

Amendment of section 409, Code of Criminal Procedure, 1898.

113. To section 409 of the said Code the following proviso shall be added, namely:—

"Provided that an Additional Sessions Judge shall hear only such appeals as the Local Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him."

Insertion of new section 415A in the Code of Criminal Procedure, 1898.

114. After section 415 of the said Code the following section shall be inserted, namely:—

Special right of appeal in certain cases.

"415A. Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal."

Amendment of section 418, Code of Criminal Procedure, 1898.

115. Section 418 of the said Code shall be re-numbered section 418 (*1*), and, to the said section, as re-numbered, the following sub-section shall be added, namely:—

"(*2*) Notwithstanding anything contained in sub-section (*1*) or in section 423, sub-section (*2*), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law."

Amendment of section 435, Code of Criminal Procedure, 1898.

116. In section 435 of the said Code,—

(*i*) to sub-section (*1*), after the words "proceedings of such inferior Court," the following words shall be added, namely:—

"and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record";

(*ii*) after the same sub-section the following *Explanation* shall be added, namely:—

"*Explanation.*—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437;" and

(*iii*) sub-section (*3*) shall be omitted.

Transposition of sections 436 and 437 and amendment of section 437, Code of Criminal Procedure, 1898.

117. Sections 436 and 437 of the said Code shall be re-numbered 437 and 436, respectively, and, in the latter section, as re-numbered,—

(*a*) for the words "accused person" the words "person accused of an offence" shall be substituted; and

(*b*) after the word "discharged" the following proviso shall be added, namely:—

"Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless

such person has had an opportunity of showing cause why such direction should not be made."

Amendment of section 438, Code of Criminal Procedure, 1898.

118. In sub-section (*2*) of section 438 of the said Code, for the words "by the Sessions Judge" the words "by or under any general or special order of the Sessions Judge" shall be substituted.

Amendment of section 439, Code of Criminal Procedure, 1898.

119. In sub-section (*1*) of section 439 of the said Code, the figures "195" shall be omitted, and after sub-section (*5*) of the same section the following sub-section shall be added, namely:—

"(*6*) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (*2*) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction."

Amendment of section 464, Code of Criminal Procedure, 1898.

120. In section 464 of the said Code,—

(*i*) after sub-section (*1*) the following sub-section shall be inserted, namely:—

"(*1A*) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466"; and

(*ii*) in sub-section (*2*), after the word "he" the words "shall record a finding to that effect and" shall be inserted.

Amendment of section 465, Code of Criminal Procedure, 1898.

121. In sub-section (*1*) of section 465 of the said Code, for the words "and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed" the following words shall be substituted, namely:—

"and if the jury or Court, as the case may be, is satisfied of the fact, the Judge shall record a finding to that effect, and shall postpone further proceedings in the case and the jury, if any, shall be discharged".

Amendment of section 466, Code of Criminal Procedure, 1898.

122. In section 466 of the said Code,—

(*i*) in sub-section (*1*), for the words "if the case is one in which bail may be taken" the words "whether the case is one in which bail may be taken or not" shall be substituted; and

(*ii*) for sub-section (*2*) the following sub-section shall be substituted, namely:—

Custody of lunatic

"(*2*) If the case is one in which in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the Local Government:

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as

the Local Government may have made under the [1]Indian Lunacy Act, 1912." IV of 1912.

Amendment of section 408, Code of Criminal Procedure, 1898.

123. In sub-section (*2*) of section 468 of the said Code, the word "person" shall be omitted, and the following words shall be added after the words "as the case may be," namely:—

"and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466."

Amendment of section 471, Code of Criminal Procedure, 1898.

124. (*1*) In sub-section (*1*) of section 471 of the said Code,—

(*i*) for the words "such judgment" the words "the finding" shall be substituted;

(*ii*) for the word "kept" the word "detained" shall be substituted; and

(*iii*) after the words "Court thinks fit," the words "and shall report the action taken to the Local Government" shall be inserted.

(*2*) After sub-section (*1*) of the same section the following proviso shall be inserted, namely:—

"Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the [1]Indian Lunacy Act, 1912." IV of 1912.

(*3*) Sub-section (*4*) of the same section shall be re-numbered (*2*).

Amendment of section 473, Code of Criminal Procedure, 1898.

125. In section 473 of the said Code, for the word "confined" the word "detained" shall be substituted, and for the words "such Inspector-General or visitors" the words "in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum, or any two of them" shall be substituted.

Amendment of section 474, Code of Criminal Procedure, 1898.

126. In section 474 of the said Code, for the word "confined" the word "detained" shall be substituted, and for the words "discharged" (wherever it occurs) and "discharge" the words "released" and "release," respectively, shall be substituted.

Substitution of new section for section 475, Code of Criminal Procedure, 1898.

127. For section 475 of the said Code the following section shall be substituted, namely:—

Delivery of lunatic to care of relative or friend.

"475. (*1*) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the Local Government may, upon the application of such relative or friend and on his giving security to

[1] General Acts, Vol. VII.

the satisfaction of such Local Government that the person delivered shall—

(*a*) be properly taken care of and prevented from doing injury to himself or to any other person, and

(*b*) be produced for the inspection of such officer, and at such times and places, as the Local Government may direct, and

(*c*) in the case of a person detained under section 466, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(*2*) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (*1*), clause (*b*), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence."

128. For section 476 of the said Code the following sections shall be substituted, namely:— Substitution of new sections for section 476, Code of Criminal Procedure, 1898.

"476. (*1*) When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 195, sub-section (*1*), clause (*b*) or clause (*c*), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to a Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate. Procedure in cases mentioned in section 195.

For the purposes of this sub-section, a Chief Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(*2*) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(*3*) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided.

Superior Court may complain where subordinate Court has omitted to do so.

476A. The power conferred on Civil, Revenue and Criminal Courts by section 476, sub-section (*1*), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

Appeals.

476B. Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and, if it makes such complaint, the provisions of that section shall apply accordingly."

Repeal of section 477, Code of Criminal Procedure, 1898.

129. Section 477 of the said Code shall be omitted.

Amendment of section 487, Code of Criminal Procedure, 1898.

130. In section 487 of the said Code, the figures "477" shall be omitted.

Amendment of section 488, Code of Criminal Procedure, 1898.

131. In section 488 of the said Code,—

(*i*) in sub-section (*1*), for the word "fifty" the words "one hundred" shall be substituted;

(*ii*) in sub-section (*3*), for the words "wilfully neglects" the words "fails without sufficient cause" shall be substituted;

(*iii*) to the same sub-section the following proviso shall be added, namely:—

"Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due;"

(*iv*) sub-section (*7*) shall be omitted; and

(*v*) sub-sections (*8*) and (*9*) shall be re-numbered (*7*) and (*8*), respectively, and, in the last-named sub-section, for the words "The accused may be proceeded against" the words "Proceedings under this section may be taken against any person" shall be substituted.

Amendment of section 489, Code of Criminal Procedure, 1898.

132. (*1*) Section 489 of the said Code shall be re-numbered as sub-section (*1*) of section 489 and, in that sub-section, as re-numbered, for the word "fifty" the words "one hundred" shall be substituted.

(*2*) To the same section the following sub-section shall be added, namely:—

"(*2*) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly."

Amendment of section 492, Code of Criminal Procedure, 1898.

133. (*1*) In sub-section (*2*) of section 492 of the said Code, the words "In any case committed for trial to the Court of Session" shall be omitted, and for the words "such case" the words "any case" shall be substituted.

(*2*) In the same sub-section, for the words "the rank of Assistant District Superintendent" the words "such rank as the Local Government may prescribe in this behalf" shall be substituted.

Amendment of section 494, Code of Criminal Procedure, 1898.

134. In section 494 of the said Code,—

(*1*) the words "appointed by the Governor General in Council or the Local Government" shall be omitted;

(*ii*) after the words "prosecution of any person" the words "either generally or in respect of any one or more of the offences for which he is tried" shall be inserted;

(*iii*) after the word "discharged" in clause (*a*), the words "in respect of such offence or offences" shall be inserted; and

(*iv*) after the word "acquitted" in clause (*b*), the words "in respect of such offence or offences" shall be added.

Amendment of section 496, Code of Criminal Procedure, 1898.

135. To section 496 of the said Code the following proviso shall be added, namely:—

"Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (*4*), or section 117, sub-section (*3*)."

Amendment of section 497, Code of Criminal Procedure, 1898.

136. In section 497 of the said Code,—

(*i*) in sub-section (*1*), for the words "the offence of which he is accused" the words "an offence punishable with death or transportation for life" shall be substituted; and to the same sub-section the following proviso shall be added, namely:—

"Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail";

(*ii*) in sub-section (*2*), for the words "such offence" the words "a non-bailable offence" shall be substituted;

(*iii*) after sub-section (*2*) the following sub-sections shall be inserted, namely:—

"(*3*) An officer or a Court releasing any person on bail under sub-section (*1*) or sub-section (*2*) shall record in writing his or its reasons for so doing.

(*4*) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered"; and

(*iv*) for sub-section (*3*) the following sub-section shall be substituted, namely:—

"(*5*) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody."

Amendment of section 504, Code of Criminal Procedure, 1898.

137. (*1*) In sub-section (*1*) of section 504 of the said Code, for the words "the said Presidency Magistrate" the words "such Presidency Magistrate" shall be substituted.

(*2*) After the same sub-section the following sub-section shall be inserted, namely:—

"(*1A*) When a commission is issued under this section to a Chief Presidency Magistrate, he may delegate his powers and duties under the commission to any Presidency Magistrate subordinate to him."

Amendment of section 505, Code of Criminal Procedure, 1898.

138. In sub-section (*1*) of section 505 of the said Code, after the word "directed" the words "or to whom the duty of executing such commission has been delegated" shall be inserted.

Amendment of section 514, Code of Criminal Procedure, 1898.

139. In section 514 of the said Code,—

(*i*) in sub-section (*3*), for the word "distress" the word "attachment" shall be substituted; and

(*ii*) in sub-section (*6*), the words "but the party who gave the bond may be required to find a new surety" shall be omitted, and, after the said sub-section, the following sub-section shall be inserted, namely:—

"(*7*) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall

presume that such offence was committed by him unless the contrary is proved."

140. After section 514 of the said Code the following sections shall be inserted, namely:— Insertion of new sections 514A and 514B in the Code of Criminal Procedure, 1898.

"514A. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514, the Court, by whose order such bond was taken, or a Presidency Magistrate or Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and, if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order. Procedure in case of insolvency or death of surety or when a bond is forfeited.

514B. When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only." Bond required from a minor.

141. In Chapter XLIII of the said Code, before section 517 the following section shall be inserted, namely:— Insertion of new section 516A in the Code of Criminal Procedure, 1898.

"516A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of." Order for custody and disposal of property pending trial in certain cases.

142. In section 517 of the said Code,— Amendment of section 517, Code of Criminal Procedure, 1898.

(*i*) in sub-section (*1*), after the word "disposal" the words "by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise" shall be inserted;

(*ii*) for sub-section (*3*) the following sub-section shall be substituted, namely:—

"(*3*) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (*4*), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of"; and

(*iii*) after sub-section (*3*) the following sub-section shall be inserted, namely:—

"(*4*) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (*1*) to

any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal".

Amendment of section 522, Code of Criminal Procedure, 1898.

143. In section 522 of the said Code,—

(*i*) in sub-section (*i*), after the word "force" where it first occurs, the words "or show of force or by criminal intimidation" shall be inserted, and after the word "force," where it occurs for the second time, the words "or show of force or criminal intimidation" shall be inserted, and for the words "such person" the words "the person dispossessed" shall be substituted;

(*ii*) in the same sub-section, after the words "thinks fit" the words "when convicting such person or at any time within one month from the date of the conviction" shall be inserted; and

(*iii*) after sub-section (*2*) the following sub-section shall be added, namely:—

"(*3*) An order under this section may be made by any Court of appeal, confirmation, reference or revision."

Amendment of section 525, Code of Criminal Procedure, 1898.

144. In section 525 of the said Code, for the words "or the Magistrate" the words "or if the Magistrate" shall be substituted, and after the word "owner" the words "or that the value of such property is less than ten rupees" shall be inserted.

Amendment of section 526, Code of Criminal Procedure, 1898.

145. In section 526 of the said Code,—

(*i*) in sub-clauses (*ii*) and (*iii*) of sub-section (*1*), the word "criminal" before the word "case," and in sub-clause (*ii*), the word "such" before the word "cases," shall be omitted;

(*ii*) in sub-section (*5*), for the word "convicted" the words "so ordered" shall be substituted, and for the words "the costs of the prosecutor" the words "any amount which the High Court has power under this section to award by way of costs to the person opposing the application" shall be substituted;

(*iii*) after sub-section (*6*) the following sub-section shall be inserted, namely:—

"(*6A*) Where any application for the exercise of the power conferred by this section is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of costs to any person who has opposed the application any expenses reasonably incurred by such person in consequence of the application"; and

(*iv*) for sub-section (*8*) the following sub-sections shall be substituted, namely:—

"(*8*) If, in the course of any inquiry or trial, or before the commencement of the hearing of any appeal, the Public Prosecutor, the

complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of such case or appeal, the Court shall adjourn the case or postpone the appeal for such a period as will afford a reasonable time for the application to be made and an order to be obtained thereon.

(*9*) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (*8*) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it."

Amendment of section 527, Code of Criminal Procedure, 1898.

146. In sub-section (*1*) of section 527 of the said Code, the word "criminal," where it occurs before the word "case," shall be omitted.

Amendment of section 528, Code of Criminal Procedure, 1898.

147. In section 528 of the said Code,—

(*i*) sub-sections (*1*), (*2*), (*3*) and (*4*) shall be renumbered (*2*), (*3*), (*5*) and (*6*), respectively, and the following shall be inserted as sub-section (*1*), namely:—

Sessions Judge may withdraw cases from Assistant Sessions Judge.

"(*1*) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Assistant Sessions Judge subordinate to him";

(*ii*) after sub-section (*3*), as re-numbered, the following sub-section shall be inserted, namely:—

"(*4*) Any Magistrate may recall any case made over by him under section 192, sub-section (*2*), to any other Magistrate and may inquire into or try such case himself"; and

(*iii*) for sub-section (*6*), as re-numbered, the following sub-section shall be substituted, namely:—

Mad. Reg. XI of 1816. Mad. Reg. IV of 1821.

"(*6*) The head of a village under the [1]Madras Village-police Regulation, 1816, or the [1]Madras Village-police Regulation, 1821, is a Magistrate for the purposes of this section."

Amendment of section 537, Code of Criminal Procedure, 1898.

148. In section 537 of the said Code,—

(*i*) clause (*b*) shall be omitted;

(*ii*) the word "want," where it occurs for the second time, shall be omitted; and

(*iii*) the *Illustration* shall be omitted.

Amendment of section 538, Code of Criminal Procedure, 1898.

149. In section 538 of the said Code, for the word "distress," wherever it occurs, the word "attachment" shall be substituted.

[1] Madras Code.

Insertion of new sections 539A and 539B in the Code of Criminal Procedure, 1898.

150. After section 539 of the said Code the following sections shall be inserted, namely:—

Affidavit in proof of conduct of public servant.

"539A. (*1*) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

An affidavit to be used before any Court other than a High Court under this section may be sworn or affirmed in the manner prescribed in section 539, or before any Magistrate.

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be true, and, in the latter case, the deponent shall clearly state the grounds of such belief.

(*2*) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.

Local inspection.

539B. (*1*) Any Judge or Magistrate may, at any state of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(*2*) Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost:

Provided that, in the case of a trial by jury or with the aid of assessors, the Judge shall not act under this section, unless such jury or assessors are also allowed a view under section 293."

Insertion of new section 540A, in the Code of Criminal Procedure, 1898.

151. After section 540 of the said Code the following section shall be inserted, namely:—

Provision for inquiries and trial being held in the absence of accused in certain cases.

"540A. (*1*) At any stage of an inquiry or trial under this Code, where two or more accused are before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any

subsequent stage of the proceedings, direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately."

Amendment of section 545, Code of Criminal Procedure, 1898.

152. In section 545 of the said Code,—

(*i*) for clause (*b*) of sub-section (*1*) the following clause shall be substituted, namely:—

"(*b*) in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court"; and

(*ii*) to sub-section (*1*) the following clause shall be added, namely:—

"(*c*) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bonâ fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto."

Insertion of new section 546A in the Code of Criminal Procedure, 1898.

153. After section 546 of the said Code the following section shall be inserted, namely:—

Order of payment of certain fees paid by complainant in non-cognizable cases.

"546A. (*1*) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant—

(*a*) the fee (if any) paid on the petition of complaint, or for the examination of the complainant, and

(*b*) any fees paid by the complainant for serving processes on his witnesses or on the accused,

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(*2*) An order under this section may also be made by an Appellate Court, or by the High Court, when exercising its powers of revision."

Amendment of section 547, Code of Criminal Procedure, 1898.

154. In section 547 of the said Code, after the word "Code" the words "and the method of recovery of which is not otherwise expressly provided for" shall be inserted.

Substitution of new section for section 559, Code of Criminal Procedure, 1898.

155. For section 559 of the said Code the following section shall be substituted, namely:—

Provision for powers of Judges and Magistrates being exercised by their successors in office.

"559. (*1*) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

(*2*) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(*3*) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge."

Insertion of new section 561A in the Code of Criminal Procedure, 1898.

156. After section 561 of the said Code the following section shall be inserted, namely:—

Saving of inherent power of High Court.

"561A. Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

Substitution of new section for section 562, Code of Criminal Procedure, 1898.

157. For section 562 of the said Code the following section shall be substituted, namely:—

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.

"562. (*1*) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon

during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

(*2*) An order under this section may be made by any Appellate Court or by the High Court when exercising its power of revision.

(*3*) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(*4*) The provisions of sections 122, 126A and 406A shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section."

Substitution of new section for section 565, Code of Criminal Procedure, 1898.

158. For section 565 of the said Code the following section shall be substituted, namely:—

Order for notifying address of previously convicted offender.

" 565. (*1*) When any person having been convicted—

(*a*) by a Court in British India of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the [1]Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years, or upwards, or

XLV of 1860.

(*b*) by a Court or Tribunal in the territories of any Prince or State in India acting under the general or special authority of the Governor General in Council, or of any Local Government, of any offence which would, if committed in British India, have been punishable under any of the aforesaid sections or Chapters of the [1]Indian Penal Code with like imprisonment for a like term,

XLV of 1860.

[1] General Acts, Vol. I.

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate, or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(*2*) If such conviction is set aside on appeal or otherwise, such order shall become void.

(*3*) The Local Government may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts.

(*4*) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(*5*) Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed, within the meaning of section 176 of the [1]Indian Penal Code, to have omitted to give a notice required for the purpose of preventing the commission of an offence. XLV of 1860.

(*6*) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated."

Amendment of Schedule II, Code of Criminal Procedure, 1898.

159. In Schedule II to the said Code,—

(*1*) in column 1, the figures "405" occurring between the figures "404" and "406" shall be omitted;

(*2*) for the first entry in column 3, against section 213, the words "may arrest without warrant" shall be substituted;

(*3*) for the entry in column 3, against section 214, the words "shall not arrest without warrant" shall be substituted;

(*4*) for the entry in column 3, against section 215, the words "May arrest without warrant" shall be substituted;

(*5*) for the entry in column 3, against section 374, the words "Shall not arrest without warrant" shall be substituted;

(*6*) for each of the entries in column 5, against sections 118, 119 and 120 occurring opposite the entries "If the offence be not committed" in column 2, the word "Bailable" shall be substituted; and for the entry in column 5 opposite the entry "120 Concealing a design to commit an offence punishable with imprisonment, if the offence be committed" the words "According as the offence concealed is bailable or not" shall be substituted;

[1] General Acts, Vol. I.

(*7*) for the entry in column 5, against section 363, the word "Bailable" shall be substituted; and, for the entry in the same column, against section 364, the words "Not bailable" shall be substituted;

(*8*) for the entry in column 5, against section 477A, the word "Bailable" shall be substituted;

(*9*) for the entry in column 5, against section 495, the word "Bailable" shall be substituted;

(*10*) for each of the entries in column 6, against sections 343, 345 and 357, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for each of the entries in the same column, against sections 344 and 347, the words "Not compoundable" shall be substituted;

(*11*) for the entry in column 6, against section 403, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(*12*) for each of the entries in column 6, against sections 417, 418, 419 and 420, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(*13*) for the entry in column 6, against section 430, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and for the entry in the same column, against section 431, the words "Not compoundable" shall be substituted;

(*14*) for the first entry in column 6, against section 451, the following shall be substituted, namely:—"Compoundable when permission is given by the Court before which the prosecution is pending"; and, for the second entry in that column, against the same section, the words "Not compoundable" shall be substituted;

(*15*) for the entry in column 6, against section 482, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 484, the words "Not compoundable" shall be substituted;

(*16*) for the entry in column 6, against section 486, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column against section 487, the words "Not compoundable" shall be substituted;

(*17*) for the entry in column 6, against section 494, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 495, the words "Not compoundable" shall be substituted;

(*18*) for the entry in column 6, against section 508, the word "Compoundable" shall be substituted;

(*19*) for the entry in column 6, against section 509, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 510, the words "Not Compoundable" shall be substituted;

(*20*) in the entry in column 7, against section 121, for the words "forfeiture of property" the word "fine" shall be substituted;

(*21*) in the entry in column 7, against section 121A, after the word "years" the words "and fine" shall be inserted;

(*22*) in the entry in column 7, against section 122, for the words "forfeiture of property" the word "fine" shall be substituted;

(*23*) for the entry in column 7, against section 477A, the words "Imprisonment of either description for seven years, or fine, or both" shall be substituted;

(*24*) for the entry in column 8, against section 294, the words "Any Magistrate" shall be substituted;

(*25*) for the entry in column 8, against section 317, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted;

(*26*) in the entry in column 8, against section 318, the words "or second" shall be omitted;

(*27*) for the entry in column 8, against section 327, the words "Court of Session, Presidency Magistrate, or Magistrate of the first class" shall be substituted; and, for the entry in the same column, against section 328, the words "Court of Session" shall be substituted;

(*28*) for the entry in column 8, against section 368, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted;

(*29*) for the entry in column 8, against section 477A, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted;

(*30*) for the entry in column 8, against section 494, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted; and, for the entry in the same column, against section 495, the words "Court of Session" shall be substituted.

Amendment of Schedule III, Code of Criminal Procedure, 1898.

160. In Schedule III to the said Code,—

(*i*) under Head I (*Ordinary Powers of a Magistrate of the Third Class*)—

(*1*) in item (5), after the word "property" the words "and to dispose of claims to attached property" shall be inserted;

(*2*) item (13) shall be omitted;

(*3*) in item (14), after the word "detention" the words "not being detention in the custody of the police" shall be inserted;

(*4*) the following item shall be inserted between items (14) and (15), namely:—

"(14a) Power to postpone issue of process and inquire into case himself, section 202;"

(*5*) to item (18), the words, figures and letter "and to require fresh security, section 514A" shall be added;

(*6*) after item (18) the following item shall be inserted, namely:—

"(18a) power to make order as to custody and disposal of property pending inquiry or trial, section 516A;"

(*7*) in item (20), the word "perishable" shall be omitted;

(*8*) after item (20) the following items shall be added, namely:—

"(21) Power to require affidavit in support of application, section 539A;

(22) Power to make local inspection, section 539B";

(*ii*) under Head II (*Ordinary Powers of a Magistrate of the Second Class*)—

(*1*) for item (3) the following item shall be substituted, namely:—

"(3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202;"

(*2*) item (4) shall be omitted;

(*iii*) under Head III (*Ordinary Powers of a Magistrate of the First Class*)—

(*1*) in item (6), for the figures "126" the figures and letter "126A" shall be substituted;

(*2*) between items (6) and (7) the following item shall be inserted, namely:—

"(6a) Power to make orders as to local nuisances, section 133;"

(*3*) between items (7) and (8), the following items shall be inserted, namely:—

"(7a) Power to record statements and confessions during a police investigation, section 164;

(7aa) Power to authorise detention of a person in the custody of the police during a police investigation, section 167;

(7b) Power to hold inquests, section 174;"

(*4*) After item (9) the following item shall be inserted, namely:—

"(9a) Power to tender pardon to accomplice during inquiry into case by himself, section 337;"

(*5*) after item (12) the following items shall be inserted, namely:—

"(12a) Power to require fresh security, section 514A;

(12b) Power to re-call case made over by him to another Magistrate, section 528 (*4*);"

(*6*) after item (13) the following item shall be added, namely:—

"(14) Power to order released convicts to notify residence, section 565;"

(*iv*) in Head IV (*Ordinary Powers of a Sub-divisional Magistrate*)—

(*1*) in the head note, after the words "Sub-divisional Magistrate," the words "appointed under section 13" shall be inserted;

(*2*) the following items shall be omitted, namely:—

"(4) Power to make orders as to local nuisances, section 133;"

"(10) Power to hold inquest, section 174;"

"(20) Power to order released convicts to notify residence, section 565",

(*v*) in Head V (*Ordinary Powers of a District Magistrate*)—

(*1*) after item (1) the following item shall be inserted, namely:—

"(1a) Power to try juvenile offenders, section 29A;"

(*2*) after item (6) the following item shall be inserted, namely:—

"(6a) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B;"

(*3*) after item (7) the following item shall be inserted, namely:—

"(7a) Power to tender pardon to accomplice at any stage of a case, section 337;"

(*4*) in item (9), after the word "for" the words "keeping the peace or" shall be inserted;

(*5*) after item (9) the following item shall be inserted, namely:—

"(9a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A;"

(*6*) in item (12), for the figures "436" the figures "437" and, in item (13), for the figures "437" the figures "436" shall be substituted, and items (12) and (13) shall be re-numbered (13) and (12), respectively.

Amendment of Schedule IV, Code of Criminal Procedure, 1898.

161. In Schedule IV to the said Code,—

(*i*) from the list of powers with which a Magistrate of the first class may be invested by the Local Government, the following shall be omitted, namely:—

"(3) Power to make orders as to local nuisances, section 133;"

"(6) Power to hold inquests, section 174;"

"(14) Power to order released convicts to notify residence, section 565;"

(*ii*) from the list of powers with which a Magistrate of the first class may be invested by the District Magistrate, item (3), namely, "Power to hold inquests, section 174," shall be omitted;

(*iii*) in the list of powers with which a Magistrate of the second class may be invested by the Local Government—

between items (3) and (4) the following items shall be inserted, namely:—

"(3a) Power to record statements and confessions during a police investigation, section 164;

(3b) Power to authorise detention of a person in the custody of the police during a police investigation, section 167;"

(*iv*) from the list of powers with which a Magistrate of the third class may be invested by the Local Government, the following shall be omitted, namely:—

"(2) Power to make orders under section 144;"

"(6) Power to commit for trial, section 206;"

and from the list of powers with which such Magistrates may be invested by the District Magistrate, the following shall be omitted, namely:—

"(2) Power to make orders under section 144."

162. In Schedule V to the said Code,— Amendment of Schedule V, Code of Criminal Procedure, 1898.

(*i*) in Form VI—

(*a*) in the ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS, for the words "Proclamation was duly issued" the words "Proclamation has been or is being duly issued" shall be substituted, and the words "and he has failed to appear" shall be omitted;

(*b*) in the ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED, for the words "Proclamation was duly issued" the words "Proclamation has been or is being duly issued" shall be substituted;

(*c*) in the ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR, for the words "Proclamation was duly issued" the words "Proclamation has been or is being duly issued" shall be substituted, and the words "but he has not appeared" shall be omitted;

(*ii*) in Forms X and XI, after the words "for the term of ," wherever they occur, the words "or until the completion of the inquiry in the matter of now pending in the Court of ;" and after the words "said term," wherever they occur, the words "or until the completion of the said inquiry" shall be inserted;

(*iii*) in Form XXX—

(*a*) in the heading, for the word "DISTRESS" the words "ATTACHMENT AND SALE" shall be substituted;

(*b*) after the words "dismissed as" the words "false and" shall be inserted; and

(*c*) the words "and cannot be recovered by distress of the moveable property of the said (name of complainant)" shall be omitted;

(*iv*) in Form XXXVII, after the figures "386" the figure, letter and brackets "(1) (*a*)" shall be inserted;

(*v*) in each of Forms XXXVII and XLI, the following amendments shall be made, namely:—

(*a*) in the heading, for the word "DISTRESS" the word "ATTACHMENT" shall be substituted;

(*b*) for the words "make distress by seizure of any" the words "attach any" shall be substituted;

(*c*) for the words "such distress" the words "such attachment" shall be substituted; and

(*d*) for the words "property distrained" the words "property attached" shall be substituted;

(*vi*) after Form XXXVII the following Form shall be inserted, namely:—

"XXXVIIA.—BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE.

(*See section 388.*)

WHEREAS I, (*name*), inhabitant of (*place*), have been sentenced to pay a fine of rupees and in default of payment thereof to undergo imprisonment for ; and whereas the Court has been pleased to order my release until the day of on condition of my executing a bond for my appearance on that day;

I hereby bind myself to appear before the Court of at o'clock on the said day of next, and, in case of making default herein, I bind myself to forfeit

to His Majesty the King, Emperor of India, the sum of Rupees
Dated this day of 19 .

(Signature.)

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above-named that he will appear before the Court of on the day of next; and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to His Majesty the King, Emperor of India, the sum of Rupees

(Signature.)"

VII of 1870.

163. Section 31 of the [1]Court-fees Act, 1870, is hereby repealed. Repeal of section 31, Court-fees Act, 1860.

164. This Act shall come into force on such [2]date as the Governor General in Council may, by notification in the Gazette of India, appoint. Commencement.

ACT No. XIX OF 1923.[3]

[2nd April, 1923.]

An Act to consolidate and amend the law in British India relating to official secrets.

WHEREAS the law in British India relating to official secrets is at present contained in two Acts of the Governor General in Council, namely, the Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act, 1904, and one Statute of Parliament, namely, the Official Secrets Act, 1911; and

XV of 1889.
V of 1904.
1 & 2 Geo. V, c. 28.

WHEREAS the Official Secrets Act, 1911, has been amended by the Official Secrets Act, 1920, which Statute applies to the United Kingdom and to certain British possessions, but not to British India; and

1 & 2 Geo. V, c. 28.
10 & 11 Geo. V, c. 75.

WHEREAS it is expedient that the law relating to official secrets in British India should be consolidated and amended;

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Official Secrets Act, 1923. Short title, extent and application.

(*2*) It extends to the whole of British India, and applies also—

(*a*) to all subjects of His Majesty and servants of the Crown within the dominions of Princes and States in India in alliance with His Majesty; and

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[1] General Acts, Vol. II.

[2] This Act was brought into force from 1st September, 1923—*vide* Notification No. F.-222-23-1, dated the 10th August, 1923, Gazette of India, 1923, Pt. I, p. 901.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 210; and for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 61.

(*b*) to all Indian subjects of His Majesty without and beyond British India.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) any reference to a place belonging to His Majesty includes a place occupied by any department of the Government, whether the place is or is not actually vested in His Majesty;

(*2*) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document;

(*3*) "document" includes part of a document;

(*4*) "model" includes design, pattern and specimen;

(*5*) "munitions of war" includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adapted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use;

(*6*) "Office under His Majesty" includes any office or employment in or under any department of the Government or of the Government of the United Kingdom or of any British possession;

(*7*) "photograph" includes an undeveloped film or plate;

(*8*) "prohibited place" means—

(*a*) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, His Majesty, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and

used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;

(*b*) any place not belonging to His Majesty where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of His Majesty, or otherwise on behalf of His Majesty;

(*c*) any place belonging to or used for the purpose of His Majesty which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

(*d*) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired or stored otherwise than on behalf of His Majesty, which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

(*9*) "sketch" includes any photograph or other mode of representing any place or thing; and

(*10*) "Superintendent of Police" includes any police officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Governor General in Council or by any Local Government.

Penalties for spying.

3. (*1*) If any person for any purpose prejudicial to the safety or interests of the State—

(*a*) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or

(*b*) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or

(*c*) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of His Majesty or in relation to any secret official code, to fourteen years and in other cases to three years.

(*2*) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State, such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

Communications with foreign agents to be evidence of commission

4. (*1*) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without British India, shall be relevant for the purpose of proving that he has, for a

purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy. of certain offences.

(*2*) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(*a*) a person may be presumed to have been in communication with a foreign agent if—

(*i*) he has, either within or without British India, visited the address of a foreign agent or consorted or associated with a foreign agent, or

(*ii*) either within or without British India, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person;

(*b*) the expression " foreign agent " includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act, either within or without British India, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without British India, committed, or attempted to commit, such an act in the interests of a foreign power;

(*c*) any address, whether within or without British India, in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

5. (*1*) If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Majesty, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under His Majesty, or as a person who holds or has held a contract made on behalf of His Wrongful communication, etc., of information.

Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract—

(*a*) wilfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it; or

(*b*) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State; or

(*c*) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or

(*d*) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document secret official code or pass word or information;

he shall be guilty of an offence under this section.

(*2*) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(*3*) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(*4*) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Unauthorised use of uniforms; falsification of reports, forgery, personation, and false documents.

6. (*1*) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—

(*a*) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or

(*b*) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or

(*c*) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document; or

(*d*) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under His Majesty, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement; or

(*e*) uses, or has in his possession or under his control, without the authority of the department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military or air force authority appointed by or acting under the authority of His Majesty, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp;

he shall be guilty of an offence under this section.

(*2*) If any person for any purpose prejudicial to the safety of the State—

(*a*) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof; or

(*b*) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or, on obtaining posses-

sion of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer; or

(*c*) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid;

he shall be guilty of an offence under this section.

(*3*) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(*4*) The provisions of sub-section (*2*) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of His Majesty, or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State, to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

Interfering with officers of the police or members of His Majesty's forces.

7. (*1*) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of His Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

(*2*) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Duty of giving information as to commission of offences.

8. (*1*) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector, empowered by an Inspector-General or Commissioner of Police in this behalf, or to any member of His Majesty's forces engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

(*2*) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Attempts, incitements, etc.

9. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

Penalty for harbouring spies.

10. (*1*) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to

commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(*2*) It shall be the duty of every person having harboured any such person as aforesaid or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(*3*) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

Search warrants.

11. (*1*) If a Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search-warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(*2*) Where it appears to a police officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police officer the like authority as may be given by the warrant of a Magistrate under this section.

(*3*) Where action has been taken by a police officer under sub-section (*2*) he shall, as soon as may be, report such action, in a Presidency town to the Chief Presidency Magistrate, and outside such town to the District or Sub-divisional Magistrate.

Power to arrest.

V of 1898.

12. Notwithstanding anything in the [1]Code of Criminal Procedure, 1898,—

(*a*) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may

[1] General Acts, Vol. V.

extend to fourteen years shall be a cognizable and non-bailable offence;

(*b*) an offence under clause (*a*) of sub-section (*1*) of section 6 shall be a cognizable and bailable offence; and

(*c*) every other offence under this Act shall be a non-cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance.

Restriction on trial of offences.

13. (*1*) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the Local Government) which is inferior to that of a District or Presidency Magistrate shall try any offence under this Act.

(*2*) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court.

(*3*) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(*4*) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in British India in which the offender may be found.

Exclusion of public from proceedings.

14. In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

Offences by companies, etc.

15. Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or

corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence.

XV of 1889. V of 1904.

16. The Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act, 1904, are hereby repealed. Repeals.

ACT No. XX OF 1923.[1]

[*2nd April, 1923.*]

An Act to give effect to certain Articles of the International Convention for the suppression of the traffic in women and children.

WHEREAS it is expedient further to amend the Indian Penal Code in order to give effect to the International Convention for the suppression of the traffic in women and children signed at Geneva on behalf of the Governor General in Council on the twenty-eighth day of March, 1922; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 1923. Short title and commencement.

(*2*) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. To section 366 of the said Code the following paragraph shall be added, namely:— Amendment of section 366, Act XLV of 1860.

> "and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid."

3. After section 366 of the said Code the following sections shall be inserted, namely:— Insertion of new sections 366A and 366B in Act XLV of 1860.

> "366A. Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine. Procuration of minor girl.
>
> 366B. Whoever imports into British India from any country outside India any girl under the age of twenty-one years with Importation of girl from foreign country.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 343; and for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 79.

intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person,

and whoever with such intent or knowledge imports into British India from any State in India any such girl who has with the like intent or knowledge been imported into India, whether by himself or by another person,

shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine."

Amendment of Schedule II, Code of Criminal Procedure, 1898.

4. In the Second Schedule to the [1]Code of Criminal Procedure, 1898, after the entry relating to section 366 of the Indian Penal Code the following entries shall be inserted, namely:— V of 1898.

" 366A	Procuration of minor girl.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session.
366B	Importation of girl from foreign country.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session."

THE INDIAN MERCHANT SHIPPING ACT, 1923.

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ACT No. XXI OF 1923.[1]

[*2nd April, 1923.*]

An Act to consolidate certain enactments relating to Merchant Shipping.

WHEREAS it is expedient to consolidate certain enactments relating to Merchant Shipping; It is hereby enacted as follows:—

PART I.

INTRODUCTORY.

Short title and commencement.

1. (*1*) This Act may be called the Indian Merchant Shipping Act, 1923.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 166.
[2] This Act was brought into force from 1st May, 1923, *vide* Notification No. 2325, dated the 28th April, 1923, Gazette of India, 1923, Pt. I, p. 381.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) " effects " includes clothes and documents;

(2) " foreign-going ship " means a ship, not being a home-trade ship, employed in trading between any port in British India and any other port or place;

(3) " home-trade ship " means a ship employed in trading between any ports in British India or between any port in British India and any port or place on the continent of India or in the Straits Settlements, or in the Island of Ceylon;

(4) " master " includes every person (except a pilot or harbour master) having command or charge of a ship;

(5) " Merchant Shipping Acts " means the Merchant Shipping Acts, 1894—1921;

(6) " passenger " includes any person carried in a ship other than the master and crew and the owner, his family and servants;

(7) " prescribed " means prescribed by rules made under this Act;

(8) " seaman " means every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship;

(9) " steam-ship " means every description of vessel used in navigation and propelled wholly or in part by the agency of steam; and

(10) " wages " includes emoluments.

Application of Act to ships propelled by electricity or mechanical power.

3. The provisions of this Act applying to steam-ships shall apply to ships propelled by electricity or other mechanical power, with such modifications as the Governor General in Council may, by notification in the Gazette of India, direct for the purpose of adaptation.

Exemption of public ships.

4. This Act shall not, except where specially provided, apply to ships belonging to His Majesty or the Government, or to ships belonging to any foreign Prince or State and employed otherwise than for profit in the public service of that foreign Prince or State.

PART II.

MASTERS AND SEAMEN.

Application.

5. (*1*) The provisions of this Part relating to the requirement of masters and mates to hold certificates of competency shall not apply to

ships registered under the [1]Indian Registration of Ships Act, 1841, and trading between ports in India and the coast of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen. X of 1841.

(2) Save as hereinbefore provided in this section, this Part shall, unless there is anything repugnant in the subject or context, apply to British ships and to the owners, masters and crews thereof as follows:—

(*a*) The provisions relating to licences to supply seamen, engagement of the crew, agreements with lascars, discharge of seamen, payment of wages, advance and allotment of wages, mode of recovering wages, and recovery of expenses of relief of distressed seamen, shall apply to every sea-going ship in British India.

(*b*) The provisions relating to the property of deceased seamen and apprentices shall apply to every sea-going ship, not being a ship registered in the United Kingdom or a ship employed in trading or going from or to any port in the United Kingdom, where the crew are discharged or the final port of destination of the ship is in British India.

(*c*) The provisions relating to the rights of seamen in respect of wages, to the return of distressed seamen, to the provisions and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition and to discipline shall apply to sea-going ships registered in British India, while such ships are in British India.

(*d*) The provisions relating to official logs shall apply to sea-going ships registered in British India, and to any sea-going ship, not being a ship registered in the United Kingdom, employed in trading or going between any port in British India and any port not situated in the part of His Majesty's dominions in which the ship is registered other than in the United Kingdom.

(3) The provisions of this Part, in so far as they are adaptations of the provisions of Part II of the [2]Merchant Shipping Act, 1894, and are not local in their application, have, by virtue of section 264 of the Merchant Shipping Act, 1894, effect throughout His Majesty's dominions and in all places where His Majesty has jurisdiction, as well as in British India. 57 & 58 Vict., c. 60.

Shipping Offices.

Shipping Offices.

6. (1) Shipping offices shall be maintained at every port in British India where there is a shipping office at the commencement of this Act,

[1] General Acts, Vol. I.
[2] Collection of Statutes relating to India.

and may be established and maintained at such other ports as the Governor General in Council may deem necessary.

(*2*) For every such office there shall be a shipping-master with such deputy shipping-masters, clerks and servants (if any) as the Local Government may consider necessary.

(*3*) Shipping-masters and deputy shipping-masters shall be appointed by the Local Government, and shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

(*4*) Every act done by or before a deputy shipping-master shall have the same effect as if done by or before a shipping-master.

Power to direct that business of shipping office be transacted at custom house office or elsewhere.

7. (*1*) The Local Government may direct that at any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house, or at the office of the port officer, or at such other office as the Local Government shall direct, and thereupon the same shall be conducted accordingly.

(*2*) In respect of such business such custom house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer to whom such business is committed shall for all purposes be deemed to be a shipping-master within the meaning of this Act.

Business of shipping-masters.

8. It shall be the general business of shipping-masters—

(*i*) to superintend and facilitate the engagement and discharge of seamen in manner in this Act provided;

(*ii*) to provide means for securing the presence on board at the proper times of the seamen who are so engaged;

(*iii*) to give to all persons desirous of apprenticing boys to the sea service and duly authorised so to do by the [1]Apprentices Act, 1850, and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships;

XIX of 1850.

(*iv*) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act or the Merchant Shipping Acts.

Fees to be paid.

9. (*1*) Such fees, not exceeding the sum specified in Table A in Schedule I, as may be fixed by the Local Government shall be payable upon all engagements and discharges effected before shipping-masters.

(*2*) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and all shipping-masters, their deputies, clerks and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

[1] General Acts, Vol. I.

(*3*) Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping-master, shall pay to the shipping-master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in Table B, in Schedule I:

Provided that, if in any cases the sums which the owner is so entitled to deduct, exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping-master in addition to such fee.

(*4*) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

Prohibition on taking other remuneration at shipping office.

10. If a shipping-master, deputy shipping-master, clerk or servant in a shipping office demands or receives, other than the fees authorised under this Act, any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for a ship or transacting any business which it is his duty to transact, he shall be liable for every such offence to a fine which may extend to two hundred rupees, and shall also be dismissed from his office.

Certificates of Competency.

Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passenger ships.

11. (*1*) Every British foreign-going ship and every British home-trade ship of three hundred tons or upwards when going to sea from any place in British India shall be provided with officers duly certificated under this Act according to the following scale, namely:—

(*a*) in any case, with a duly certificated master;

(*b*) if the ship is of three hundred tons or upwards, with at least one officer besides the master holding a certificate not lower than that of a mate.

(*2*) Every British foreign-going steam-ship when going to sea from any place in British India shall be provided with engineers duly certificated under this Act according to the following scale, namely:—

(*a*) if the ship is of one hundred nominal horse-power or upwards, with at least two engineers, one of whom shall be a first class and the other a first class or second class engineer duly certificated;

(*b*) if the ship is of less than one hundred nominal horse-power, with at least one engineer who is a first class or second class engineer duly certificated.

(*3*) Every British home-trade steam-ship when going to sea from any place in British India and every foreign steam-ship carrying passengers between places in British India shall be provided with engineers duly certificated according to the following scale, namely:—

(*a*) if the ship is of fifty nominal horse-power or upwards, with at least one engineer who is a first class or second class engineer duly certificated;

(*b*) if the ship is of less than fifty nominal horse-power, with at least one engineer who is a first class or second class engineer, or an engine driver duly certificated.

(*4*) Nothing in this section which relates to engineers or engine drivers shall apply to any steam-ship to which the provisions of the [1]Inland Steam-vessels Act, 1917, apply.

I of 1917.

When officer deemed duly certificated.

12. An officer shall not be deemed to be duly certificated under this Act, unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade,

(*a*) granted in accordance with the Merchant Shipping Acts or any Act repealed thereby or this Act or any Act repealed hereby; or

(*b*) issued by a competent authority in any British possession, the certificates of which have been declared by Order in Council made under section 102 of the [2]Merchant Shipping Act, 1894, to have the same force as if they were granted under that Act.

57 & 58 Vict., c. 60.

Penalty for serving, etc., as a master, mate or engineer without a certificate.

13. Any person who,—

(*a*) having been engaged as one of the officers mentioned in section 11, goes to sea as such officer without being duly certificated, or

(*b*) employs a person as an officer in contravention of section 11, without ascertaining that the person so serving is duly certificated,

shall be liable for each such offence to a fine which may extend to five hundred rupees.

Grades of certificate of competency

14. (*1*) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely:—

Master of foreign-going ship.

First mate of foreign-going ship.

[1] General Acts, Vol. VIII.

[2] Collection of Statutes relating to India.

Second mate of foreign-going ship.
Master of a home-trade ship.
Mate of a home-trade ship.
First class engineer.
Second class engineer.
Engine driver.

(2) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

Examinations for certificates.

15. The Local Government or a person duly authorised by the Local Government in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under this Act.

Grant of certificates on passing examinations.

16. The Local Government or such authorised person shall deliver to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires:

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

Certificates of service of Naval Officers.

17. (1) A person who has attained the rank of Lieutenant in His Majesty's Navy or in the Royal Indian Marine shall be entitled to a certificate of service as the master of a foreign-going ship without examination.

(2) A person who has attained the rank of engineer or assistant engineer in His Majesty's Navy or the Royal Indian Marine, shall be entitled without examination, if an engineer, to a certificate of service as first class engineer, and, if an assistant engineer, to a certificate of service as second class engineer.

(3) A certificate of service shall differ in form from a certificate of competency, and shall contain the name and rank of the person to whom it is delivered, and the Local Government shall deliver a certificate of service to any person who proves himself to be entitled thereto.

(4) The provisions of this Act (including the penal provisions) shall apply in the case of a certificate of service as they apply in the case of a certificate of competency.

Form of certificates.

18. Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall

be delivered to the person entitled to the certificate, and the other shall be kept by the Local Government and recorded in the prescribed manner.

Record of orders affecting certificates.

19. A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept by the Local Government.

Loss of certificate.

20. Whenever a master, mate, engineer or engine driver proves to the satisfaction of the Local Government by or under the authority of which his certificate was granted that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the Local Government shall cause a copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

Power to make rules as to grant of certificates of competency.

21. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may make rules to regulate the granting of certificates of competency under this Act, and may, by such rules,—

(*a*) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers, or engine drivers;

(*b*) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters, first mates, second mates, first class engineers, second class engineers, or engine drivers;

(*c*) fix the fees to be paid by applicants for examination; and

(*d*) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate to be kept by the Local Government is to be recorded.

Production of certificates of competency to shipping-master.

22. (*1*) The master of a foreign-going ship—

(*a*) on signing the agreement with his crew shall produce to the shipping-master, before whom the same is signed, the certificates of competency which the master, mate and engineers of the ship are by this Act required to hold; and

(*b*) in the case of a running agreement shall, also, before the second and every subsequent voyage, produce to the shipping-master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(*2*) The master or owner of every home-trade ship of more than three hundred tons burden shall produce to some shipping-master in British India, within twenty-one days after the thirtieth of June and the thirty-first of December in every year, or (if the ship is not at any port in British India within twenty-one days after either the thirtieth of June or

the thirty-first day of December in any year) within forty-eight hours after her next arrival at any port in British India, the certificates of competency which the master, mates and engineers of the ship are by this Act required to hold.

(*3*) Upon the production of the certificates of competency, the shipping-master shall, if the certificates are such as the master, mates and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.

(*4*) The master shall, before proceeding to sea, produce the certificate given to him by the shipping-master to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(*5*) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any ship attempts to go to sea without a clearance, any such officer may detain her until the certificate is produced.

Apprenticeships to the Sea Service.

Application of Act XIX of 1850.

23. (*1*) Subject to the provisions of the [1]Apprentices Act, 1850, XIX of 1850. any boy may be bound as an apprentice in the sea service to the owner of any ship registered in British India to be employed in any such ship, being the property of such person, the master of which is a British subject, and while so employed to be taught the craft and duty of a seaman, and the provisions of the said Act shall, save as hereinafter provided in this section, apply accordingly.

(*2*) The master of any ship in which any apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound shall be deemed to be the agent of such party for the purposes of the said Act.

(*3*) The duties of the Magistrate under that Act in respect of the contract of apprenticeship and of the endorsements thereon of any assignment, alteration or cancellation of the contract and of the certification of the offer of the continuation of the contract by the executors or administrators of a deceased master of the apprentice shall be performed by the shipping-master of the port where the apprentice is to begin his service.

Licences to supply Seamen.

Licences to supply seamen.

24. (*1*) The Local Government or any person duly authorised by the Local Government in this behalf may grant to such persons as may be deemed fit licences to engage or supply seamen for merchant ships in British India.

[1] General Acts, Vol. I.

(2) Any such licence shall continue for such period, and may be granted and revoked on such terms and conditions as the Local Government thinks proper.

Penalties for engaging seamen without licence.

25. (1) A person shall not engage or supply a seaman to be entered on board any ship in British India unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employ of the owner, or is a shipping-master.

(2) A person shall not employ, for the purpose of engaging or supplying a seaman to be entered on board any ship in British India, any person unless that person, either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employment of the owner, or is a shipping-master.

(3) A person shall not receive or accept to be entered on board any ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall for each seaman in respect of whom an offence is committed be liable to a fine which may extend to one hundred rupees, and, if a licensed person, shall forfeit his licence.

Penalty for receiving remuneration from seamen for shipping them.

26. (1) A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever for providing him with employment other than the fees authorised by this Act.

(2) If a person acts in contravention of this section, he shall for each such offence be liable to a fine of fifty rupees, and, if a licensed person, shall forfeit his licence.

Engagement of Seamen.

Agreements with crew.

27. (1) The master of every British ship, except home-trade ships of a burden not exceeding three hundred tons, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew from, any port in British India.

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master shall for each offence be liable to a fine which may extend to fifty rupees.

Form and contents of the agreement.

28. (1) An agreement with the crew shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same.

(*2*) The agreement with the crew shall contain as terms thereof the following particulars, namely:—

(*a*) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(*b*) the number and description of the crew, specifying how many are engaged as sailors;

(*c*) the time at which each seaman is to be on board or to begin work;

(*d*) the capacity in which each seaman is to serve;

(*e*) the amount of wages which each seaman is to receive;

(*f*) a scale of the provisions which are to be furnished to each seaman, such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the Local Government with the previous sanction of the Governor General in Council and published in the local official Gazette;

(*g*) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt; and

(*h*) where it is agreed that the services of any lascar or other native seaman shall end at any port not in British India, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in British India as may be agreed on, or a passage to some port in British India free of charge or on such other terms as may be agreed upon, and in this provision the word "seaman" shall include also any native of British India carried to sea from any port in British India as one of the crew:

Provided that any such stipulation shall be signed by the owner of the ship or by the master on his behalf.

(*3*) The agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping) as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

(4) If a master enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under this section, he shall be liable to a fine which may extend to two hundred rupees.

Engagement of single seaman where agreement is made out of British India.

29. If the master of a ship registered at a port outside British India has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged and engages a single seaman not being a lascar or other native seaman in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Special provisions with regard to agreements with crew of foreign-going ships.

30. (1) The following provisions shall have effect with respect to the agreements with the crew made in British India in the case of foreign-going ships registered either within or without British India, namely:—

(a) The agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman in the presence of a shipping-master.

(b) The shipping-master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

(c) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.

(d) When a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, if practicable, be made before a shipping-master, and if not practicable the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute; and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.

(e) The agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are, in this Act referred to as running agreements.

(f) Save as otherwise provided in this section, running agreements shall not extend beyond the next following thirtieth

day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in British India after such date, or the discharge of cargo consequent upon that arrival.

(*g*) On every return to a port in British India before the final termination of a running agreement, the master shall discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine which may extend to two hundred rupees.

(*h*) The master shall deliver the running agreement so endorsed to the shipping-master, and the shipping-master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(*2*) In the case of a ship—

(*a*) registered in British India, or

(*b*) registered in the United Kingdom but not employed in trading with any port in the United Kingdom,

a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in British India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port out of British India to any other such port which is not on the direct road or a customary route to her port of destination in British India:

Provided, also, that every such agreement shall, in addition to any other particulars required by law, contain such stipulations for the discharge of the crew and payment of their wages, for securing their return to the port at which they were shipped or to some other port in British India, and for other purposes on the termination of the agreement at a port out of British India under the foregoing proviso, as the Governor General in Council may direct.

Renewal of running agreements in certain cases.

31. (*1*) When a running agreement has been made with the crew of a foreign-going ship and the ship arrives after the next following thirtieth day of June or thirty-first day of December, as the case may be, or after the expiration of a period of six months from the date on which it was executed at a port of destination in British India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement for the voyage from such port of destination to the port in British India at which the crew have agreed to be discharged.

(*2*) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.

32. The following provisions shall have effect with respect to the agreements with the crew of home-trade ships for which an agreement with the crew is required under this Act, namely:—

(*a*) Agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but, in the latter case, the names of the ships and the nature of the ships and the nature of the service shall be specified in the agreement.

(*b*) Crews or single seamen may, if the master thinks fit, be engaged before a shipping-master in the same manner as they are required to be engaged for service in foreign-going ships, but, if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.

(*c*) An agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act with respect to the making of the agreement shall apply accordingly.

(*d*) Agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship at her final port of destination in British India after such date, or the discharge of cargo consequent on that arrival:

Provided that the owner or his agent may enter into time agreements in forms sanctioned by the Governor General in Council with individual seamen to serve in any one or more ships belonging to such owner, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December.

Changes in crew of foreign-going ship to be reported.

33. (*1*) The master of every foreign-going ship, of which the crew has been engaged before a shipping-master, shall, before finally leaving British India, sign and send to the nearest shipping-master a full and accurate statement in a form sanctioned by the Governor General in Council, of every change which takes place in his crew before finally leaving British India, and that statement shall be admissible in evidence.

(*2*) If any master fails without reasonable cause to comply with the requirements of this section, he shall be liable for each offence to a fine which may extend to fifty rupees.

Certificate as to agreement with crew of foreign-going ship.

34. (*1*) In the case of a foreign-going ship on the due execution of an agreement with the crew in accordance with this Act, and also, when the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the shipping-master shall grant the master of the ship a certificate to that effect.

(*2*) The master of every foreign-going ship shall, before proceeding to sea, produce that certificate to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(*3*) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

(*4*) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping-master at the place; and such shipping-master shall thereupon give to the master a certificate of such delivery; and no officer of Customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

(*5*) Any master who fails without reasonable cause so to deliver the agreement with the crew, shall be liable for each offence to a fine which may extend to fifty rupees.

Certificate as to agreement with crew of home-trade ship.

35. (*1*) The master or owner of a home-trade ship of more than three hundred tons burden shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in British India within twenty-

one days after either the thirtieth day of June or the thirty-first day of December) within forty-eight hours of her next arrival at a port in British India, deliver or transmit to a shipping-master in British India every agreement made within the six months next preceding such days respectively.

(*2*) The shipping-master on receiving such agreement shall give the master or owner of the ship a certificate to that effect; and no officer of Customs or other officer authorised to grant a port-clearance shall grant a clearance for any such ship without a production of the certificate, and, if any such ship attempts to go to sea without such clearance, any such officer may detain her until the certificate is produced.

(*3*) Any master or owner who fails, without reasonable cause, to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

Copy of agreement to be made accessible to the crew.

36. (*1*) The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

(*2*) Any master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

Alteration in agreement with the crew.

37. Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation (if made in His Majesty's dominions) of some shipping-master, Justice, officer of Customs, or other public functionary, or (if made out of His Majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

Engagement of Lascars by Masters of Foreign Ships.

Engagements between masters of foreign ships and lascars or native seamen.

38. (*1*) When the master of a foreign ship being at any port in British India engages any lascar or other native seaman to proceed to any port out of British India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping-master in the manner provided by this Act for the making of agreements in the case of foreign-going ships.

(*2*) All the provisions of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman.

(*3*) The master of the foreign ship shall give to the shipping-master a bond with the security of some approved person resident in British India for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by Government in respect of any such lascar or other native seaman who is discharged or left behind at any port out of British India and becomes distressed and is relieved under the provisions of the Merchant Shipping Acts.

(*4*) The prescribed fees shall be payable in respect of every such engagement and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under this Act.

Penalty for master of foreign ship illegally engaging native seamen.

39. If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in section 38, the master shall be liable to a fine which may extend to one hundred rupees for every seaman so engaged.

Power to prohibit engagement of native seamen.

40. (*1*) The Local Government or such officer as it may appoint in this behalf may, by order in writing, prohibit any person from engaging in the territories subject to the said Government or in any specified portion of such territories, any native of India to serve as a seaman on any ship specified in such order, but in every case the reasons for the prohibition shall be stated in writing.

(*2*) Whoever wilfully disobeys any such prohibition shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

Power to board British ships and muster seamen.

41. (*1*) For the purpose of preventing seamen from being taken on board any British ship or lascars or native seamen being taken on board any foreign ship at any port in British India contrary to the provisions of this Act, any shipping-master or deputy shipping-master may enter at any time on board any such ship upon which he has reason to believe that seamen or lascars or native seamen, as the case may be, have been shipped, and may muster and examine the several seamen employed therein.

(*2*) If any person obstructs a shipping-master or deputy shipping-master in the exercise of his powers under sub-section (*1*), he shall be liable to a fine which may extend to one hundred rupees.

Discharge of Seamen.

Discharge before shipping-master.

42. (*1*) When a seaman serving in a British foreign-going ship is, on the termination of his engagement, discharged in British India, he shall, whether the agreement with the crew be an agreement for the

voyage or a running agreement, be discharged in the manner provided by this Act in the presence of a shipping-master.

(2) If the master or owner of the ship acts in contravention of this section, he shall, for each offence, be liable to a fine which may extend to one hundred rupees.

(3) If the master or owner of a home-trade ship, of more than three hundred tons burden, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

Certificate of discharge and return of certificate to officer on discharge.

43. (1) The master shall sign and give to a seaman discharged from his ship in British India, either on his discharge or on payment of his wages, a certificate of his discharge in a form sanctioned by the Local Government specifying the period of his service and the time and place of his discharge.

(2) If a master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(3) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if, without reasonable cause, he fails so to do, he shall for each offence be liable to fine which may extend to two hundred rupees.

Payment of Wages.

Master to deliver account of wages.

44. (1) The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account in a form sanctioned by the Local Government of the seaman's wages and of all deductions to be made therefrom on any account whatever.

(2) The said account shall be delivered—

(a) where the seaman is not discharged before the shipping-master, to the seaman himself not less than twenty-four hours before his discharge or payment off; and

(b) where the seaman is to be discharged before a shipping-master, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping-master not less than twenty-four hours before the discharge or payment off.

(3) If the master of a ship fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine which may extend to fifty rupees.

Deductions from wages of seamen.

45. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after the delivery.

(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment.

Payment of wages before shipping-master.

46. (1) Where a seaman is discharged before a shipping-master in British India, he shall receive his wages through, or in the presence of, a shipping-master unless a competent Court otherwise directs, and in such a case, if the master or owner of the ship pays his wages in British India in any other manner, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(2) If the master or owner of a home-trade ship so desires, the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship.

Time of payment of wages.

47. (1) The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered or within five days after the seaman's discharge, whichever first happens, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

(2) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond the respective times, but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

Settlement of wages.

48. (1) Where a seaman is discharged and the settlement of his wages completed before a shipping-master, he shall sign in the presence of the shipping-master a release in a form sanctioned by the Local Government of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the shipping-master.

(2) The release so signed and attested shall be retained by the shipping-master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) A copy of the release, certified under the hand of the shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

(*4*) Where the settlement of a seaman's wages is by this Act required to be completed through, or in the presence of, a shipping-master, no payment, receipt or settlement made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim.

(*5*) Upon any payment being made by a master before a shipping-master, the shipping-master shall, if required, sign and give to the master a statement of the whole amount so paid, and this statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

Decision of questions by shipping-masters.

49. (*1*) Where any question of whatever nature and whatever the amount in dispute between a master or owner and any of his crew is raised before a shipping-master, and both parties agree in writing to submit the same to him, the shipping-master shall hear and decide the question so submitted, and an award made by him upon the submission shall be conclusive as to the rights of parties, and any document purporting to be such submission or award shall be *primâ facie* evidence thereof.

(*2*) An award made by a shipping-master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under this Act.

Power of shipping master to require production of ship's papers.

50. (*1*) In any proceedings under this Act before a shipping-master relating to the wages, claims or discharge of a seaman, the shipping-master may require the owner or his agent or the master or any mate or other member of the crew to produce any log-books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

(*2*) If any person so required fails, without reasonable cause, to comply with the requisition, he shall for each offence be liable to a fine which may extend to fifty rupees.

Rate of exchange for payment of seamen in British Indian money.

51. Where a seaman or apprentice has agreed with the master of a British ship for payment of his wages in British currency, the seaman or apprentice shall be entitled to demand and recover in British Indian currency the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of His Majesty's Treasury for the adjustment of financial transactions between the Imperial and the Indian Governments.

Advance and Allotment of Wages.

Advances and allotments.

52. (*1*) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the

agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(*2*) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(*3*) Save as aforesaid an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman conditional on his going to sea from any port in British India shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and a person shall not have any right of action, suit or set off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

Regulations as to allotment notes.

53. (*1*) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(*2*) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding one-third) of his wages in favour either of a relative of the seaman or some member of his family to be named in the note.

(*3*) Allotment notes shall be in a form sanctioned by the Local Government.

Payment of sums allotted.

54. (*1*) The owner or any agent who has authorised the drawing of an allotment note shall pay to the shipping-master on demand the sums due under the note, and, if he fails to do so, the shipping-master may sue for and recover the same with costs:

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required, or by a certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(*2*) The shipping-master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(*3*) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping-master or the deputy shipping-master.

(*4*) The said book shall be at all reasonable times open to the inspection of the parties concerned.

Rights of Seamen in respect of Wages.

Right to wages and provisions.

55. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board whichever first happens.

Right to recover wages and salvage not to be forfeited.

56. (*1*) A seaman shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Act shall be void.

(*2*) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be rendered by that ship to any other ship.

Wages not to depend on freight.

57. (*1*) The right to wages shall not depend on the earning of freight and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages.

(*2*) Where a seaman or apprentice who would but for death be entitled by virtue of this section to demand and recover any wages dies before the wages are paid, they shall be paid and applied in manner provided by this Act with respect to the wages of a seaman who dies during a voyage.

Wages on termination of service by wreck or illness.

58. Where the service of a seaman terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, or of his being left on shore at any place out of British India under a certificate granted as provided by the Merchant Shipping Acts of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

Wages not to accrue during refusal to work

59. A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when required whether before or after the time fixed by the agreement for his

or imprisonment.

commencement of such work nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Power to deduct from wages cost of procuring conviction.

60. Whenever in any proceeding relating to a seaman's or apprentice's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of any offence by a competent Court and rightly punished therefor by imprisonment or otherwise, the Court hearing the case may direct any part of the wages due to the seaman or apprentice not exceeding thirty rupees to be applied to re-imbursing any cost properly incurred by the master in procuring the conviction and imprisonment.

Compensation to seamen.

61. If a seaman having signed an agreement is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage or before one month's wages are earned without fault on his part justifying that discharge and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage caused to him by the discharge not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Restriction on sale of and charge upon wages.

62. (*1*) As respects wages due or accruing to a seaman or apprentice—

(*a*) they shall not be subject to attachment by order of any Court;

(*b*) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same;

(*c*) a power-of-attorney or authority for the receipt thereof shall not be irrevocable;

(*d*) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment or encumbrance thereof.

(*2*) Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

Mode of recovering Wages.

Summary proceedings for wages.

63. A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him not exceeding five hundred rupees become payable, sue for the same in a summary manner before any Magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the order made by the Magistrate in the matter shall be final.

Restriction on suits for wages.

64. A proceeding for the recovery of wages not exceeding five hundred rupees shall not be instituted by or on behalf of any seaman or apprentice in any Colonial Court of Admiralty or in any Civil Court other than the Court of Small Causes where such a Court exists, except—

(*a*) where the owner of the ship is adjudged bankrupt or declared insolvent;

(*b*) where the ship is under arrest or is sold by the authority of any Court; or

(*c*) where a Magistrate under the authority of this Act refers a claim to the Court.

Remedies of masters for wages.

65. (*1*) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(*2*) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master in respect of wages any right of set off or counter claim is set up, the Court may enter into and adjudicate upon all questions and settle all accounts then arising or outstaending and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

Property of Deceased Seamen.

Master to take charge of the effects of deceased seamen.

66. (*1*) If any seaman or apprentice belonging to a British ship the voyage of which is to terminate in British India dies during that voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(*2*) The master may, if he think fit, cause any effects to be sold by auction at the mast or otherwise by public auction.

(*3*) The master shall enter in the official log-book the following particulars, namely:—

(*a*) a statement of the amount of money and a description of the effects;

(*b*) in the case of a sale, a description of each article sold and the sum received for each; and

(*c*) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(*4*) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice.

Disposal of property of seamen who

67. (*1*) The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver and pay the property

die during the voyage.

of any deceased seaman or apprentice to the shipping-master at that port, and shall give to such shipping-master an account of the property so delivered and paid.

(2) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book, and also by such other vouchers, if any, as may be reasonably required by the shipping-master.

Penalty for non-compliance with provisions as to property of deceased seamen.

68. (1) If the master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto or to the payment or delivery of the property, he shall be accountable for the property to the shipping-master as aforesaid, and shall pay and deliver the same accordingly and shall in addition, for each offence, be liable to a fine not exceeding treble the value of the property not accounted for or, if such value is not ascertained, not exceeding five hundred rupees.

(2) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act.

Payment over property of deceased seamen by shipping-master.

69. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping-master, the shipping-master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may—

(a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(b) if he thinks fit so to do, require probate or letters of administration or a certificate under the [1]Succession Certificate Act, 1889, to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased. VII of 1889.

Disposal of unclaimed property of deceased seamen.

70. (1) Where no claim to the property of a deceased seaman or apprentice received by a shipping-master is substantiated within one year from the receipt thereof by such shipping-master, the shipping-master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

(2) If, after any money has been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the shipping-master, the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established the claimant may apply by petition to the High Court,

[1] General Acts, Vol. IV.

and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such property by the shipping-master, no claim to such property shall be entertained without the sanction of the Local Government.

Distressed Seamen.

Relief of distressed seamen to whom Merchant Shipping Acts apply.

71. (*1*) A certificate of the Local Government or of such officer as the Local Government may appoint in this behalf to the effect that any seaman named therein is distressed shall in all proceedings under the Merchant Shipping Acts regarding the maintenance and relief of distressed seamen be conclusive evidence that such seaman is distressed within the meaning of those Acts.

(*2*) Any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said Acts shall for each seaman with respect to whom he so refuses be liable to a fine which may extend to one thousand rupees.

Recovery of wages, etc., of distressed seamen under the Merchant Shipping Acts.

72. (*1*) Where any wages or expenses recoverable in respect of distressed seamen under the Merchant Shipping Acts are, under the said Acts, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may, from time to time by notification in the Gazette of India, authorise, either generally or specially, such persons as he thinks fit to sue for and recover in manner in the Merchant Shipping Acts provided, those wages or expenses.

(*2*) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of clause (*7*) of section 57 of the I of 1872. [1]Indian Evidence Act, 1872.

(*3*) All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council.

Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply.

Provisions of the Act not to apply to seamen or apprentices to whom the Merchant Shipping Acts apply.

73. Nothing in the following provisions of this Part relating to distressed seamen shall apply to seamen or apprentices to whom the provisions of the Merchant Shipping Acts apply.

[1] General Acts, Vol. II.

Relief of distressed seamen at British Indian ports.

74. (*1*) Where any seamen or apprentices—

(*a*) being Indian subjects of His Majesty are found at any place in British India and have been shipwrecked, discharged or left behind whether from any British ship or from any of His Majesty's ships and are in distress in that place, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign Power, or to the subject of any foreign State, and are in distress in British India; and

(*b*) not being Indian subjects have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and are in distress in any such place,

the local authority may in accordance with the prescribed conditions provide for the subsistence of those seamen and apprentices (who are hereinafter referred to as distressed seamen) until such time as such authority is able to provide them with a passage as hereinafter provided.

(*2*) "Local authority", in relation to the provisions of this Act as to distressed seamen, means such person as the Local Government may, subject to the control of the Governor General in Council, appoint to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Act.

Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.

75. (*1*) Subject to the prescribed conditions the local authority may cause distressed seamen to be put on board some ship belonging to any subject of His Majesty which is in want of men to make up its complement and is bound—

(*a*) in the case of distressed seamen who are Indian subjects of His Majesty, to their home or to a port in British India near their home;

(*b*) in the case of other British distressed seamen, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(*c*) in the case of distressed seamen not being subjects of His Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

(*2*) In default of any such ship, the local authority may, subject as aforesaid, provide such distressed seamen with a passage in any ship (whether British or foreign) bound as aforesaid.

Name and other particulars with

76. The local auhority shall indorse on the agreement with the crew of any British ship on board of which any distressed seaman is sent the

name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed. regard to sea men to be indorsed on agreement of British ship.

77. (*1*) The master of every British ship shall receive and afford a passage and subsistence to all distressed seamen whom he is required to take on board his ship under the provisions of section 75, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman with a proper berth or sleeping-place effectually protected against sea and weather. Master of British ship compelled to convey and give subsistence to such seamen.

(*2*) If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman contrary to the provisions of sub-section (*1*), he shall, for each such seaman with respect to whom he so fails or refuses, be liable to a fine which may extend to one thousand rupees.

78. (*1*) When the master of a British ship has conveyed a distressed seaman in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Act, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such distressed seaman such sum *per diem* as the Governor General in Council may fix: Conditions under which master may claim payment.

Provided that no such payment shall be made except on the production of the following documents (that is to say):—

(*a*) a certificate signed by the local authority by whose direction such distressed seaman was received on board, specifying the name of such seaman and the time when he was received on board; and

(*b*) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—

(*i*) the number of days during which such distressed seaman received subsistence and was provided for as aforesaid on board his ship;

(*ii*) the number of men and boys forming the complement of his crew;

(*iii*) the number of seamen and apprentices employed on board his ship during the time such distressed seaman was on board; and

(*iv*) every variation (if any) of such number.

(*2*) The declaration required by this section shall, in the case of a ship conveying Indian subjects of His Majesty to a port in British India,

be made before a shipping-master or such other officer as the Local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 48 of the [1]Merchant Shipping Act, 1906. 6 Edw. 7, c. 48.

Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.

79. Where any expenses are incurred by a local authority under this Part on account of a distressed seaman either for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, those expenses (together with the wages, if any, due to the seaman) shall be a charge upon the ship, whether British or foreign, to which he belonged.

Mode of recovering such wages and expenses.

80. All such expenses and wages shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the distressed seaman would be recoverable by him.

Local Government may authorise persons to recover same.

81. (*1*) The Local Government may, by notification in the local official Gazette, authorise, either generally or specially, such persons as it thinks fit to sue for any such expenses and wages and recover the same.

(*2*) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the [2]Indian Evidence Act, 1872. I of 1872.

Board of Trade may recover such amount from master or owner in certain cases.

82. When any such expenses and wages are due to or in respect of a distressed seaman (not being an Indian subject of His Majesty) belonging to a British ship registered in British India, they may, instead of being recovered by a person authorised under section 81, be recovered by the Board of Trade in manner provided by section 42 of the [1]Merchant Shipping Act, 1906, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council. 6 Edw. 7, c. 48.

What shall be evidence of distress and expenses incurred.

83. In all proceedings under this Part, whether in British India or elsewhere, the production of a certificate signed by the local authority by which any distressed seaman named therein was relieved, or any expenses were incurred, under this Part, to the effect that such seaman was in distress, and that such expenses were incurred in respect of such seaman, shall be sufficient evidence that such seaman was relieved, conveyed home or buried, as the case may be, at the expense of the revenues of India.

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[1] Collection of Statutes relating to India.
[2] General Acts, Vol. II.

84. The Governor General in Council may make rules to determine under what circumstances and subject to what conditions distressed seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part regarding distressed seamen. Power of Governor General in Council to make rules.

Provisions, Health and Accommodation.

85. (*1*) If three or more of the crew of a British ship consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or deficient in quantity, they may complain thereof to any shipping-master or other officer duly appointed in this behalf by the Local Government, and the shipping-master or other officer may either examine the provisions or water complained of or cause them to be examined. Complaints as to provisions or water.

(*2*) If the officer or person making the examination finds that the provisions or water are of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship.

(*3*) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable for each offence to a fine which may extend to two hundred rupees.

(*4*) The officer directing or the person making the examination shall enter a statement of the result of the examination in the official log-book, and shall, if he is not the shipping-master, send a report thereof to the shipping-master and that report shall be admissible in evidence in any legal proceeding.

(*5*) If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

86. (*1*) In either of the following cases— Allowance for short or bad provisions.

(*i*) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore); or

(*ii*) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use;

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance the following sums to be paid to him in addition to and to be recoverable as wages:—

(*a*) if his allowance is reduced by not more than one-third of the quantity specified in the agreement a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman;

(*b*) if his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman;

(*c*) in respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

(*2*) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration and modify or refuse the compensation as the justice of the case requires.

Medicines to be provided and kept on board certain ships.

87. (*1*) All foreign-going British ships and all home-trade ships of more than three hundred tons burden shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the Local Government with the approval of the Governor General in Council and published in the local official Gazette.

(*2*) If any requirement in this section with respect to the provision of medicines and appliances is not complied with in the case of any ship, the owner or master of that ship shall for each offence be liable to a fine which may extend to two hundred rupees, unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default.

(*3*) This section shall not apply to ships navigating between the United Kingdom and any port in British India and to which section 200 of the [1]Merchant Shipping Act, 1894, applies. 57 & 58 Vict., c. 60.

Weights and measures on board.

88. The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and

[1] Collection of Statutes relating to India.

articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities. If the master of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Expenses of medical attendance in case of illness.

89. (*1*) If the master of, or a seaman or apprentice belonging to, a ship registered in British India receives any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured or dies or is brought back to the port from which he was shipped or other port agreed upon and of his conveyance to that port, and in case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from his wages.

(*2*) Where any expenses referred to in this section have been paid by the master, seaman, or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid or allowed out of any money forming part of the revenues of India, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Secretary of State for India in Council.

Accommodation for seamen.

90. (*1*) Every place in a British ship which is occupied by seamen or apprentices engaged under this Act and appropriated for their use shall have—

(*a*) for each European seaman or apprentice or other person shipped on the same footing as a European seaman, a space of ten superficial feet if the place be not less than six feet in height from deck to deck, or sixty cubic feet if the height from deck to deck be less than six feet;

(*b*) for each lascar or native seaman or person shipped on the same footing as a lascar, six superficial and thirty-six cubic feet and, if the place allotted be under the top gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it.

(*2*) In every case the place shall be below a well caulked and substantial deck, securely constructed, properly ventilated and properly protected from weather and sea.

(*3*) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees.

(*4*) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

(*5*) If any such place is not so kept free, the master shall for each offence be liable to a fine which may extend to one hundred rupees.

Inspection of medicines and appliances and accommodation.

91. (*1*) The shipping-master or deputy shipping-master at any port in British India may enter at any time on board any ship upon which seamen have been shipped at that port and inspect the medicines and appliances and the accommodation for seamen with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts.

(*2*) If, on inspection, the provisions or water on board any ship are found to be of bad quality and unfit for use or deficient in quantity, the shipping-master shall proceed as provided in section 85, and the fine prescribed by the said section shall be incurred by any default of the master of the ship in respect of such provisions or water and the ship shall be detained until the defects are remedied to the satisfaction of the shipping-master.

Facilities for making Complaints.

Facilities for making complaints.

92. (*1*) If a seaman or apprentice, whilst on board ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit,

(*a*) if the ship is then at a place where there is a Magistrate, after such statement, and

(*b*) if the ship is not then at such place, after her first arrival at such a place,

allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

(*2*) If the master of a ship fails without reasonable cause to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.

Protection of Seamen from Imposition.

Assignment or sale of salvage invalid.

93. Subject to the provisions of this Act, an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

No debt exceeding three rupees recoverable till end of voyage.

94. A debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded.

Penalty for overcharges by lodging-house-keepers.

95. If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine which may extend to one hundred rupees.

Penalty for detaining seamen's effects.

96. (*1*) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice and does not return the same or pay the value thereof when required by the seaman or apprentice subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise or absconds therewith, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(*2*) Any Magistrate imposing a fine under this section may direct the amount of such money or the value of the effects subject to such deduction as aforesaid, if any, or the effects themselves to be forthwith paid or delivered to the seaman or apprentice.

Penalty for solicitations by lodging-house-keepers.

97. If within twenty-four hours after the arrival of a ship at a port in British India a person then being on board the ship solicits a seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees.

Penalty for being on board ship without permission before seamen leave.

98. Where a ship is about to arrive or is arriving or has arrived at the end of the voyage and any person not being in His Majesty's service or not being duly authorised by law for the purpose goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last), that person shall for each offence be liable to a fine which may extend to two hundred rupees, and the master of the ship may take him into custody and deliver him up forthwith to a police officer to be taken before a Magistrate to be dealt with according to the provisions of this Act.

Provisions as to Discipline.

Misconduct endangering life or ship.

99. If a master, seaman or apprentice belonging to a British ship by wilful breach of duty or by neglect of duty or by reason of drunkenness—

(*a*) does any act tending to the immediate loss, destruction or serious damage of the ship or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or

(*b*) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss,

destruction or serious damage or for preserving any person belonging to or on board the ship from immediate danger to life or limb;—

he shall be liable for every such offence to a fine which may extend to one thousand rupees or to imprisonment for a term which may extend to two years, or to both.

Desertion and absence without leave.

100. If a seaman lawfully engaged or an apprentice commits any of the following offences he shall, notwithstanding anything in the [1]Code of Criminal Procedure, 1898, be liable to be tried in a summary manner V of 1898. and to be punished as follows:-

(*i*) if he deserts from his ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned and also, if the desertion takes place at any place not in British India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to British India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also he shall be liable to imprisonment for a term which may extend to twelve weeks;

(*ii*) if he neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship or is absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion or is not treated as such by the master, be guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute, and also he shall be liable to imprisonment for a term which may extend to ten weeks.

Conveyance of deserter or imprisoned seaman on board ship.

101. (*1*) If a seaman or apprentice is guilty of the offence of desertion or of absence without leave or otherwise absents himself from his ship without leave, the master, any mate, the owner, ships husband or

[1] General Acts, Vol. V.

consignee of the ship may, with or without the assistance of police officers, convey him on board his ship, and those officers are hereby directed to give assistance if required.

(2) If the seaman or apprentice so requires, he shall first be taken before some Court capable of taking cognizance of the matter to be dealt with according to law.

(3) If it appears to the Court before whom the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner, ship's husband or consignee, as the case may be, a fine which may extend to two hundred rupees.

(4) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

(5) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

Power to Court to order offender to be taken on board ship.

102. Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion or of absence without leave or of otherwise absenting himself without leave, the Court, if the master or the owner, or his agent, so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards be earned.

General offences against discipline.

103. If a seaman lawfully engaged or an apprentice commits any of the following offences (in this Act referred to as offences against discipline), he shall, notwithstanding anything in the [1]Code of Criminal Procedure, 1898, be liable to be tried in a summary way and to be punished as follows, namely:—

V of 1898.

(*i*) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he

[1] General Acts, Vol. V.

shall be liable to forfeit out of his wages a sum not exceeding one month's pay;

(*ii*) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a period which may extend to four weeks and shall also be liable to forfeit out of his wages a sum not exceeding two days' pay;

(*iii*) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable for every twenty-four hours' continuance of such disobedience or neglect for a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;

(*iv*) if he assaults the master or any mate or a certificated engineer of the ship, he shall be liable to imprisonment for a term which may extend to twelve weeks;

(*v*) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks;

(*vi*) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also to imprisonment for a term which may extend to twelve weeks;

(*vii*) if he is convicted of any act of smuggling whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to re-imburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction on account of that liability without prejudice to any further remedy.

Penalty for false statement as to last ship or name.

104. (*1*) If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name, he shall for each offence be liable to a fine which may extend to fifty rupees.

(*2*) The fine may be deducted from any wages the seaman may earn by virtue of his engagement as aforesaid and shall, subject to re-imbursement of the loss or expenses, if any, occasioned by any desertion

previous to the engagement, be paid and applied in the same manner as other fines under this Act.

Entry of offences in official log.

105. If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

(*i*) an entry of the offence or act shall be made in the official log-book and signed by the master and also by the mate or one of the crew; and

(*ii*) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit; and

(*iii*) a statement of a copy of the entry having been so furnished or the entry having been so read over and in either case the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and

(*iv*) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

Report of desertions and absences without leave.

106. (*1*) Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself in British India without leave from a British ship in which he is engaged to serve, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the shipping-master or to such other officer as the Local Government appoints in this behalf, unless, in the meantime, the deserter or absentee returns.

(*2*) Any master wilfully neglecting to comply with the provisions of this section shall be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Entries and certificates of desertion abroad.

107. (*1*) In every case of desertion from a ship registered in British India whilst such ship is at any place out of British India, the master shall produce the entry of the desertion in the official log-book to the person authorised by the [1]Merchant Shipping Act, 1906, to grant certificates for leaving seamen behind abroad; and that person shall thereupon make and certify a copy of the entry.

6 Edw. 7, c. 48.

(*2*) The master shall forthwith transfer such copy to the shipping-master at the port at which the seaman or apprentice was shipped, and

[1] Collection of Statutes relating to India.

the shipping-master shall, if required, cause the same to be produced in any legal proceeding.

(*3*) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

Facilities for proving desertion in proceeding for forfeiture of wages.

108. (*1*) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in British India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log-book.

(*2*) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Application of forfeitures.

109. (*1*) Where any wages or effects are under this Act forfeited for desertion from a ship, they shall be applied towards re-imbursing the expenses caused by the desertion to the master or the owner of the ship and, subject to that re-imbursement, shall be paid into the public treasury and carried to the account of Government.

(*2*) For the purposes of such re-imbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

(*3*) Where wages are forfeited under the foregoing provisions of this Act in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Decision of questions of forfeiture and deduction in suits for wages.

110. Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Ascertainment of amount of forfeiture out of wages

111. (*1*) If a seaman contracts for wages by the voyage or by the run or by the share and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period hereinbefore mentioned in fixing the amount

of forfeiture (as the case may be) bears to the whole time spent in the voyage or run.

(2) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Payment of fines imposed under agreement to shipping-master.

112. (1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely:—

(i) if the offender is discharged at any port or place in British India, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping-master; and

(ii) if before the final discharge of the crew in British India, any such offender as aforesaid enters into any of His Majesty's ships or is discharged at any place not in British India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters or of the consular officer, officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person; and on the return of the ship to British India, the master or owner shall pay over such fine in the case of foreign-going ships to the shipping-master before whom the crew is discharged, and in the case of home-trade ships to the shipping-master at or nearest to the place at which the crew is discharged.

(2) If any master or owner neglects or refuses so to pay over the fine, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him.

(3) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punished under the provisions of this Act.

Penalty for enticing to desert.

113. If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine which may extend to one hundred rupees.

Penalty for harbouring deserters.

114. If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine which may extend to one hundred rupees.

Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.

115. (*1*) If a person secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks.

(*2*) Every sea-faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and had signed the agreement with, the crew.

Procedure where seaman or apprentice not shipped in British India is imprisoned on complaint of master or owner.

116. (*1*) If any seaman or apprentice who is not shipped in British India is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

(*a*) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Local Government or of such officer as it may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and

(*b*) the Local Government or such officer as it may appoint in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office—

(*i*) the wages due to such seaman or apprentice and his money and effects; and

(*ii*) such sum as may, in the opinion of the Local Government or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

(*2*) If any person wilfully disobeys the prohibition contained in clause (*a*) of sub-section (*1*), he shall be liable to imprisonment for a

term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

(*3*) Any master or owner refusing or neglecting to deposit any wages, money, effects or sum when so required by this section, shall be liable to a fine which may extend to five hundred rupees.

Power to send on board seaman or apprentice not shipped in British India who is undergoing imprisonment.

117. If any seaman or apprentice who is not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

On change of master, documents to be handed over to successor.

118. (*1*) If during the progress of a voyage the master of any ship registered in British India is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody, and shall in default be liable to a fine which may extend to one thousand rupees.

(*2*) Such successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

Leaving Seamen or Apprentices in British India.

Discharge or leaving behind in British India of seamen or apprentice not shipped in British India.

119. (*1*) No seaman or apprentice who was not shipped in British India shall be discharged at any port in British India without the previous sanction in writing of such officer as the Local Government appoints in this behalf. Such sanction shall be given or withheld at the discretion of the officer so appointed, but, whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

(*2*) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (*1*), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

Official Logs.

Official logs to be kept and to be dated.

120. (*1*) An official log shall be kept in every ship registered in British India except home-trade ships not exceeding three hundred tons burden in the form sanctioned by the Local Government.

(*2*) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log-book be duly filled up.

(*3*) An entry required by this Act in the official log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(*4*) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew and also—

(*a*) if it is an entry of injury or death, shall be signed by the Surgeon or medical practitioner on board, if any; and

(*b*) if it is an entry of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master; and

(*c*) if it is an entry of wages due to a seaman who enters His Majesty's naval service, shall be signed by the seaman or by the officer authorised to receive the seaman into that service.

(*5*) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

Entries required in official log-book.

121. The master of a ship for which an official log is required shall enter or cause to be entered in the official log-book the following matters, namely:—

(*i*) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted;

(*ii*) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine together with such statement concerning the reading over of that entry, and concerning the reply (if any) made to the charge as is by this Act required;

(*iii*) every offence for which punishment is inflicted on board and the punishment inflicted;

(*iv*) a statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars;

(*v*) every case of illness or injury happening to a member of the crew with the nature thereof, and the medical treatment adopted (if any);

(*vi*) every case of death happening on board and the cause thereof;

(*vii*) every birth happening on board with the sex of the infant and the names of the parents;

(*viii*) every marriage taking place on board with the names and ages of the parties;

(*ix*) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;

(*x*) the wages due to any seaman who enters His Majesty's naval service during the voyage;

(*xi*) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;

(*xii*) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it;

(*xiii*) every collision with any other ship and the circumstances under which the same occurred.

Offences in respect of official logs.

122. (*1*) If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall, if no other penalty is provided by this Act, be liable for each offence to a fine which may extend to fifty rupees.

(*2*) If any person makes or procures to be made or assists in making any entry in any official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, he shall for each offence be liable to a fine which may extend to three hundred rupees.

(*3*) If any person wilfully destroys or mutilates or renders illegible any entry in any official log-book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, he shall be liable to imprisonment for a term which may extend to one year.

Delivery of official logs to shipping-masters.

123. (*1*) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the shipping-master before whom the crew is discharged.

(*2*) The master or owner of every home-trade ship, for which an official log is required to be kept, shall, within twenty-one days of the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping-master in British India the official log-book for the preceding half-year.

(*3*) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall be liable to a fine which may extend to two hundred rupees.

Official logs to be sent to shipping-master in case of transfer of ship and in case of loss.

124. (*1*) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required on the same date, the master or owner of the ship shall, if the ship is then in British India, within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out at the time of the cessation.

(*2*) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out to the time of the loss or abandonment.

(*3*) If the master or owner of the ship fails without reasonable cause to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

PART III.

PASSENGER SHIPS.

Survey of Passenger Ship.

No steam-ship to carry passengers without a certificate of survey.

125. (*1*) No steam-ship shall carry more than twelve passengers between places in British India or to or from any place in British India from or to any place out of British India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(*2*) Nothing in sub-section (*1*) shall apply to—

(*a*) any steam-ship having a certificate of survey granted by the Board of Trade, or by the Government of any part of His Majesty's dominions where such certificate has been declared under section 284 of the [1]Merchant Shipping Act, 1894, to be of the same force as if granted under that Act, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient; or 57 & 58 Vict., c. 60.

[1] Collection of Statutes relating to India.

(*b*) any steam-ship having a certificate of survey granted under the [1]Inland Steam Vessels Act, 1917, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed; or

I of 1917.

(*c*) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Part expires and the time at which it is first practicable to have the certificate renewed.

Power for Local Government to exempt certain steamships.

126. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of this Part relating to the survey of steam-ships shall not apply in the case of any specified steam-ship or class of steam-ships, or shall apply thereto with such modifications as the Local Government may direct.

No port-clearance until certificate of survey produced.

127. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by this Part until after the production by the owner or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

Power to detain steamship not having certificate of survey.

128. If any steam-ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

Appointment of surveyors and ports of survey.

129. The Local Government may appoint so many persons as it thinks fit to be surveyors for the purposes of this Part at such ports within the territories under its administration as it may appoint to be ports of survey.

Powers of surveyor.

130. (*1*) For the purposes of a survey under this Part, any surveyor appointed under this Part may, at any reasonable time, go on board a steam-ship and may inspect the steam-ship and any part thereof, and the machinery, equipments or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

[1] General Acts, Vol. VIII.

Fees in respect of surveys.

131. Before a survey under this Part is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government may appoint in this behalf—

(*a*) a fee calculated on the tonnage of the steam-ship according to the rates in Schedule II or according to any other prescribed rates; and

(*b*) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port, as the Local Government may, by notification in the local official Gazette, direct.

Power for Local Government to direct that two surveyors be employed.

132. A survey under this Part shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

Division of duties when two surveyors employed.

133. When a survey is made under this Part by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Part or the rules made thereunder to a surveyor making a survey.

Declaration of surveyor.

134. When a survey under this Part is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely:—

(*a*) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition;

(*b*) that the equipments of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship;

(*c*) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient;

(*d*) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-ship is in the surveyor's judgment not fit to ply;

(*e*) the number of passengers which the steam-ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such

conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires; and

(*f*) any other prescribed particulars.

Sending of declaration by owner or master to Local Government.

135. (*1*) The owner or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government may appoint in this behalf.

(*2*) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(*3*) The owner or master shall pay any sum so forfeited on the delivery of the certificate of survey.

Grant of certificate of survey by Local Government.

136. (*1*) Upon receipt of a declaration of survey, the Local Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government may appoint in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the sums (if any) mentioned in this Part as payable on delivery of a certificate.

(*2*) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the steam-ship and the transmission of the declaration of survey in respect thereof have been complied with; and shall set forth—

(*a*) the particulars concerning the steam-ship which clauses (*c*), (*d*) and (*e*) of section 134 require the declaration by the surveyor to contain; and

(*b*) any other prescribed particulars.

(*3*) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(*4*) The Local Government may delegate to any person—

(*a*) the function, assigned to the Local Government by sub-section (*1*), of granting a certificate of survey under that sub-section;

(*b*) the function, assigned to the Local Government by sub-section (*3*), of causing notice to be given of a certificate or survey being ready for delivery:

Provided, with respect to clause (*a*) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to

authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey.

Power for Local Government to order a second survey.

137. (*1*) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration of survey under section 134 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require, direct two other surveyors appointed under this Part to survey the steam-ship.

(*2*) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper, and their decision shall be final.

Duration of certificates of survey.

138. A certificate of survey granted under this Part shall not be in force—

(*a*) after the expiration of one year from the date thereof; or

(*b*) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(*c*) after notice has been given, by the Local Government, to the owner or master of the steam-ship to which the certificate relates that the Local Government has cancelled or suspended it.

Cancellation or suspension of certificate of survey by Local Government.

139. Any certificate of survey granted under this Part may be cancelled or suspended by a Local Government if it has reason to believe—

(*a*) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made; or

(*b*) that the certificate has otherwise been issued upon false or erroneous information; or

(*c*) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury, or have otherwise become insufficient.

Power to require delivery of expired or cancelled certificate of survey.

140. (*1*) The Local Government may require any certificate of survey granted under this Part which has expired, or has been cancelled or suspended, to be delivered up to such person as it directs.

(*2*) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate when required to do so under

this section, he shall be liable to a fine which may extend to one hundred rupees.

Report of cancellation or suspension of certain certificates.

141. If the Local Government which cancels or suspends a certificate of survey granted under this Part is not the Local Government which or whose delegate granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons thereof, to the Local Government which or whose delegate granted the certificate.

Certificate of survey to be affixed in conspicuous part of steam-ship.

142. (*1*) The owner or master of every steam-ship for which a certificate of survey has been granted under this Part shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

(*2*) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees.

Penalty for carrying passengers in contravention of the Act.

143. If a steam-ship on any voyage carries or attempts to carry passengers in contravention of section 125, or has on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the steam-ship or the part thereof is fit to carry on that voyage, the owner and the master shall each be punishable with a fine which may extend to one thousand rupees, and also with an additional fine not exceeding twenty rupees for every passenger above the number so set forth, or, if the fare of any passenger on board exceeds twenty rupees, not exceeding double the amount of the fares of all the passengers above the number so set forth, reckoned at the highest rate of fare payable by any passenger on board; and if the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section 125 is a licensed pilot, he shall be liable to have his licence as a pilot suspended or cancelled for any period by the Local Government.

Steam-ships with foreign certificates of survey or certificates of partial survey.

144. (*1*) When a steam-ship requires to be furnished with a certificate of survey under this Part and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port where the survey was made, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part:

Provided that this sub-section shall not apply in the case of a foreign steam-ship to an official survey at any foreign port with respect to which

His Majesty has by Order in Council directed that section 363 of the [1]Merchant Shipping Act, 1894, shall not apply. 57 & 58 Vict., c. 60.

(*2*) When the Local Government has, by notification in the local official Gazette, declared that it is satisfied that an official survey at any foreign port specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person appointed by the Local Government in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the Local Government by sub-section (*1*) in the case of any steam-ship furnished with a valid certificate of survey granted at such foreign port and duly attested by the British Consular Officer at that port.

(*3*) The procedure prescribed in sub-section (*1*) shall be applicable in the case of steam-ships furnished with valid certificates of partial survey, including docking certificates, granted by the Board of Trade or any British Colonial Government, as if they were steam-ships furnished with like certificates of survey granted at foreign ports, subject to the modification that the powers of the Local Government under the said sub-section may be exercised by any person appointed by the Local Government in this behalf.

Power for Local Government to make rules as to surveys.

145. (*1*) The Local Government may, subject to the condition of previous publication and the sanction of the Governor General in Council, make rules to regulate the making of surveys under this Part.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare the times and places at which, and the manner in which, surveys are to be made;

(*b*) regulate the duties of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;

(*c*) declare the form in which the declarations of surveyors and certificates of survey under this Part are to be framed, and the nature of the particulars which are to be stated therein, respectively; and

(*d*) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

Provisions in case of Wreck of Ship carrying Steerage Passengers.

Application of certain sections of

146. (*1*) The provisions contained in Part I of Schedule III (being sections 332, 333, 334 and 335 of the [1]Merchant Shipping Act, 1894) 57 & 58 Vict., c. 60.

[1] Collection of Statutes relating to India.

are declared applicable to ships carrying steerage passengers upon the following voyages, namely:— Merchant Shipping Act, 1894, in case of wreck of ship carrying steerage passengers on certain voyages.

(*a*) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Luicia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;

(*b*) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;

(*c*) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands Colony of Dutch Guiana;

(*d*) voyages from the ports of Calcutta, Madras and Bombay to the Danish Colony of St. Croix;

(*e*) voyages under Part IV of this Act (which relates to native passenger ships) from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the Protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

(*2*) This section shall not come into operation until His Majesty's pleasure thereon has been publicly signified by notification in the Gazette of India.

(*3*) On such signification of such pleasure, the [1]Indian Sea Passengers Act, 1885, shall be repealed. XII of 1885.

PART IV.

Native Passenger Ships and Pilgrim Ships.

147. (*1*) This Part applies— Application of Part.

(*a*) to all subjects of His Majesty within the dominions of Princes and States in India;

(*b*) to all Indian subjects of His Majesty without and beyond British India.

(*2*) But the provisions of this Part relating to native passenger ships do not apply—

(*a*) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa;

[1] General Acts, Vol. III.

(*b*) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India; or

(*c*) to any ships to which the provisions of the [1]Inland Steam Vessels Act, 1917, are applicable. I of 1917.

(*3*) Notwithstanding anything in sub-sections (*1*) and (*2*), the Local Government may, with the previous sanction of the Governor General in Council, declare all or any of the provisions of this Part relating to native passenger ships to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such persons.

Power to exempt ship from provisions of Part IV.

148. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such condition as it thinks fit, exempt any ship or class of ships from any provision of this Part relating to native passenger ships.

(*2*) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

Definitions

149. In this Part, unless there is anything repugnant in the subject or context,—

(*1*) "native passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa or a child under one year of age; and, in the computation of passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger;

(*2*) "native passenger ship" means, save as otherwise provided in this Part, a ship carrying more than thirty native passengers;

(*3*) "pilgrim" means a Muhammadan passenger going to, or returning from, the Hedjaz; but it does not include a child under one year of age, and, in the computation of pilgrims for all or any of the purposes of this Act, the Governor General in Council may, by notification in the Gazette of India, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim;

Explanation I.—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act;

[1] General Acts, Vol. VIII.

Explanation II.—Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Part;

(*4*) "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez:

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act.

Explanation.—"A pilgrim of the lowest class" is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved;

(*5*) "voyage" means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(*6*) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Part applies.

General Provisions as to Native Passenger and Pilgrim Ships.

Places appointed by the Government.

150. (*1*) A native passenger ship shall not, nor shall a pilgrim ship, depart or proceed from, or discharge native passengers or pilgrims, as the case may be, at any port or place within British India other than a port or place appointed in this behalf by the Local Government for native passenger ships or pilgrim ships, as the case may be.

(*2*) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a native passenger or pilgrim, as the case may be, except at some other port or place so appointed.

Notice to be given of day of sailing.

151. (*1*) The master, owner or agent of a native passenger or pilgrim ship so departing or proceeding shall give notice to an officer, appointed in this behalf by the Local Government, that the ship is to carry native passengers or pilgrims and of her destination and of the proposed time of sailing.

(*2*) The notice shall be given—

(*a*) in the case of a native passenger ship not less than twenty-four hours before that time;

(*b*) in the case of a pilgrim ship at the original port of departure if in British India, and in other cases at the first port at which she touches in British India, not less than three days, and at all other ports not less than twenty-four hours before that time.

Power to enter on and inspect ship.

152. After receiving the notice, the officer or a person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

Ship not to sail without two certificates.

153. (*1*) A ship intended to carry native passengers or pilgrims shall not commence a voyage from a port or place appointed under this Part, unless the master holds two certificates to the effect mentioned in the two next following sections.

(*2*) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

Contents of certificate A.

154. The first of the certificates (hereinafter called "certificate A") shall state that the ship is sea-worthy and properly equipped, fitted and ventilated, and—

(*a*) in the case of a native passenger ship, the number of passengers which she is capable of carrying;

(*b*) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

Contents of certificate B.

155. The second of the certificates (hereinafter called "certificate B") shall state—

(*a*) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;

(*b*) that she has the proper complement of officers and seamen;

(*c*) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for native passengers or pilgrim ships, as the case may be, have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the native passengers or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale;

(*d*) that the master holds certificate A;

(*e*) in the case of a native passenger ship if the ship is to make a short voyage, as hereinafter defined, in a season of foul weather, and to carry upperdeck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(*f*) in the case of a native passenger ship, if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in the prescribed manner;

(*g*) in the case of a pilgrim ship, that she is propelled principally by steam and that she is of the tonnage and steam power (if any) prescribed;

(*h*) in the case of a pilgrim ship, if she is to carry more than one hundred pilgrims, that she has on board the medical officer or officers required by this Part and the prescribed attendants; and

(*i*) such other particulars, if any, as may be prescribed for native passenger or pilgrim ships, as the case may be.

Supply by passengers of their own food.

156. If an officer appointed in this behalf by the Local Government is satisfied that a native passenger or pilgrim has brought on board a native passenger or pilgrim ship for his own use food of the quality and in the quantity prescribed, the requirements of this Part, respecting the supply of food for passengers or pilgrims, shall not apply so far as regards the supply of food for that passenger or pilgrim.

Grant of certificates.

157. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 151 who is hereinafter referred to as the certifying officer.

Substitute for certificate A.

158. Where the master of a ship produces to the certifying officer one of the certificates of survey referred to in sections 136 and 144 in respect of the ship in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the certifying officer may, if the particulars required by section 154 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Part.

Survey of ship.

159. (*1*) After receiving the notice required by section 151 the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed:

Provided that he shall not cause a ship holding one of the certificates of survey referred to in Part III to be surveyed unless by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.

(*2*) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the service on which she is to be employed, the expense of the survey shall be paid by the Local Government.

Discretion as to grant of certificate.

160. (*1*) The certifying officer shall not grant a certificate unless he is satisfied that the ship has not on board any cargo likely from its

quality, quantity or mode of stowage to prejudice the health or safety of the native passengers or pilgrims.

(*2*) Save as aforesaid, and subject to the provisions of sub-section (*3*), it shall be in the discretion of the certifying officer to grant or withhold the certificate.

(*3*) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

Copy of certificates to be exhibited.

161. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Part in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Penalty for ship unlawfully departing or receiving passengers on board.

162. (*1*) If a native passenger or pilgrim ship departs or proceeds on a voyage from, or discharges native passengers or pilgrims at, any port or place within British India in contravention of the provisions of this Part, or if a person is received as a native passenger or pilgrim on board any such ship in contravention of the provisions of this Part, the master or owner shall, for every native passenger or pilgrim carried in the ship, or for every native passenger or pilgrim so discharged or received on board, be liable to a fine which may extend to one hundred rupees or to imprisonment for a term which may extend to one month, or to both:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

(*2*) The ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Part, with all costs, has been enforced, under the provisions of this Part.

Penalty for opposing entry on, or inspection of, ships.

163. If a person impedes or refuses to allow any entry or inspection authorised by or under this Part, he shall be liable to a fine which may extend to five hundred rupees for each offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty for not exhibiting copy of certificates.

164. If the master or owner of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of this Part with respect to the posting of copies of certificates, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for fraudulent alteration in ship after

165. If the master of a native passenger or pilgrim ship after having obtained any of the certificates mentioned in this Part fraudulently does or suffers to be done anything whereby the certificate becomes

inapplicable to the altered state of the ship, her native passengers or pilgrims, as the case may be, or other matters to which the certificate relates, he shall be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both. certificate obtained.

166. If the master of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger or pilgrim the prescribed allowance of food, fuel and water, as required by the provisions of this Part, he shall be liable to a fine which may extend to twenty rupees for every native passenger or pilgrim who has sustained detriment by the omission. Penalty for failing to supply native passengers or pilgrims with prescribed provisions.

167. (*1*) If a native passenger or pilgrim ship has on board a number of native passengers or pilgrims which is greater than the number allowed for the ship by or under this Part, the master and owner shall, for every such passenger or pilgrim over and above that number, be each liable to a fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger or pilgrim: Penalty for having excessive number of passengers on board.

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(*2*) Any officer authorised in this behalf by the Local Government may cause all native passengers or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

168. If the master of a native passenger or pilgrim ship lands any native passenger or pilgrim at any port or place other than the port or place at which the native passenger or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both. Penalty for landing native passenger or pilgrim at a place other than that at which he has contracted to land.

169. If a native passenger or pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the native passengers or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both. Penalty for making voyage in contravention of contract.

Information to be sent to ports of embarkation and discharge.

170. (*1*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a native passenger or pilgrim ship touches or arrives, shall, with advertence to the provisions of this Part, send any particulars which he may deem important respecting the native passenger or pilgrim ship, and the native passengers or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the native passengers or pilgrims or any of them embarked or are to be discharged.

(*2*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of native passengers or pilgrims and other matters have been complied with.

Report of Consul.

171. In any proceeding for the adjudication of any penalty incurred under this Part any document purporting to be a report of such particulars as are referred to in sub-section (*1*) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of His Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

Authority to institute proceedings for penalties.

172. The penalties to which masters and owners of native passenger and pilgrim ships are made liable by this Part shall be enforced only on information laid at the instance of a certifying officer, or at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Appointment of officers.

173. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

Special Provisions relating to Native Passenger Ships.

Definitions.

174. (*1*) "Long voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port.

(*2*) "Short voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port.

Power to declare what shall be deemed "seasons of fair weather," "seasons of foul weather" and "long voyages" and "short voyages."

175. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Part relating to native passenger ships, "seasons of fair weather" and "seasons of foul weather," and, for sailing-ships and steam-ships, respectively, a "long voyage" and a "short voyage".

Space to be available for passengers.

176. (*1*) For seasons of fair weather, a native passenger ship performing a short voyage shall, subject to the provisions of this Part, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(*2*) For seasons of foul weather, a native passenger ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(*3*) For seasons of foul weather, a native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(*4*) In seasons of foul weather a native passenger ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

Ship taking additional passengers at intermediate place.

177. If a native passenger ship performing a short voyage takes additional native passengers on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating—

(*a*) the number of native passengers so taken on board, and

(*b*) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed:

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the full number of native passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

Deaths on voyage.

178. When the ship after performing a short voyage reaches her final port or place of arrival, the master shall notify to such officer as the Local Government appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

Space to be available for passengers.

179. (*1*) A native passenger ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(*2*) A native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Statements concerning passengers.

180. The master of a native passenger ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the native passengers, and the number of the crew, and shall deliver them to the certifying officer, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Deaths on voyage.

181. The master of any such ship shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any native passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land native passengers, and before any passenger leaves the ship, produce the statement with any additions made thereto to a person lawfully exercising consular authority on behalf of His Majesty at the port or place, or to the Chief Customs-officer thereat or the certifying officer, if any, appointed there.

Ship taking additional passengers at intermediate place.

182. (*1*) In either of the following cases, namely,—

(*a*) if after the ship has departed or proceeded on a long voyage any additional native passengers are taken on board at a port or place within British India appointed under this Part for the embarkation of native passengers, or

(*b*) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional native passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Part with respect to certificate B and statements concerning native passengers shall be applicable to any certificate granted or statement made under this section.

Certain ships to be propelled by steam.

183. (1) A ship carrying native passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

Certain ships to carry medical officer.

184. (1) A ship carrying more than one hundred native passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in the prescribed manner.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Ships carrying passengers to or from port in Red Sea to touch at Aden.

185. (1) A ship carrying native passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

(2) If the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained a bill of health under this section, he shall, for every such offence, be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

(3) If, in the case of any such ship as is referred to in this section, the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Part applicable to the ship, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Bill of health at Aden.

186. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of native passengers than the number allowed for the ship by or under this Part, and may refuse to grant it if the requirements of any rule under this Part are not complied with on board the ship.

Bond where ship clears

187. In the case of a ship carrying native passengers from any port in British India other than Aden to any port in the Red Sea, the officer

for port in Red Sea.

whose duty it is to grant a port clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty native passengers, and

(*b*) that the master and medical officer (if any) of the ship shall on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty native passengers, comply with the provisions of this Part and of such rules relating to ships carrying native passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Part.

Power for Local Government to direct medical inspection of passengers.

188. (*1*) The Local Government may direct that no native passenger shall be received on board any ship, or any ship of a specified class, carrying native passengers from any port in British India to any port in the Red Sea, unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(*2*) If, in the opinion of the officer making an inspection under this section, a native passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

(*3*) If the master of any such ship knowingly receives on board the ship any person in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each person so received, or to imprisonment which may extend to three months, or to both.

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

189. If a master fails to comply with any of the requirements of section 180 or section 181 as to the statements concerning native passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 177 or to report deaths as required by section 178 or to obtain any such fresh certificate, or to make any such statement of the number of additional native passengers, as is mentioned in section 182, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty for bringing passengers from

190. If a ship carrying native passengers from any port or place beyond British India to any port or place in British India has on board

a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every native passenger in excess of that number, be each liable to a fine which may extend to twenty rupees. Penalty for foreign port in excess of authorised number.

191. (*1*) The Governor General in Council may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships, all or any of the following matters, namely:— Power for Governor General in Council and Local Government to make rules.

(*a*) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water;

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(*c*) the licensing and appointment of medical officers in cases where they are required by this Part to be carried;

(*d*) the boats, anchors and cables to be provided on board;

(*e*) the instruments for purposes of navigation to be supplied;

(*f*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires;

(*g*) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to lifebuoys;

(*h*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

(*i*) the access of between-decks passengers to the upper deck; and

(*j*) generally, to carry out the purposes of this Part.

(*2*) The Local Government may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships,—

(*a*) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf; and

(*b*) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(*3*) In making a rule under this section, the authority making it may direct that a breach of it shall be punishable with fine which may

extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(*4*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Power to prescribe space to be available for passengers.

192. The Governor General in Council may by order prescribe, in the case of any native passenger ship or class of such ships and for all or any voyages, the number of superficial or of cubic feet of space to be available for native passengers, and the order shall be alternative to, or override, as the Governor General in Council may direct, the requirements on that subject of this Part so far as they apply to that ship or class of ships.

Special Provisions regarding Pilgrim Ships.

Space to be provided for pilgrims.

193. (*1*) The Governor General in Council may by order determine the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under this Act) to be available in the between-decks for pilgrims of each class, respectively, on board pilgrim ships.

(*2*) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures:

Provided that the upper deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(*3*) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit.

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

Disposal of pilgrims' baggage.

194. The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

Hospital accommodation.

195. There shall be a regularly appointed hospital on board every pilgrim ship offering such conditions of security, health and space, and capable of accommodating such number, not exceeding five per cent. of the pilgrims embarked, as may be prescribed.

Statement concerning pilgrims to be delivered before ship departs.

196. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign a statement in duplicate in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and

such other particulars as may be prescribed, and shall deliver both copies to the certifying officer who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

Deaths on voyage.

197. The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination, or at any port or place at which it may be intended to land pilgrims, and before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of His Majesty at the port or place or to the Chief Customs officer thereat or the certifying officer (if any) appointed there.

Pilgrim ship taking additional pilgrims at intermediate place.

198. (*1*) In either of the following cases, namely:—

(*a*) if, after a pilgrim ship has departed or proceeded on her voyage, any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or

(*b*) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall furnish an additional statement, in duplicate in the prescribed form, respecting such additional pilgrims.

(*2*) All the foregoing provisions of this Part with respect to certificate B, and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships, shall be applicable to any certificate granted or statement furnished under this section.

Statement concerning pilgrims to be delivered before pilgrims disembark in British India.

199. The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the certifying officer appointed thereat.

Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.

200. (*1*) Every pilgrim ship shall be propelled principally by steam, and shall be of the tonnage and steam-power (if any) prescribed.

(*2*) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

Certain pilgrim ships to carry medical officers and attendants.

201. (*1*) Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed, and, if the number carried exceed one thousand, a second medical officer similarly licensed, and also in all cases such attendants as may be prescribed.

(*2*) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

Medical officers' diaries and reports.

202. The medical officer or officers of every pilgrim ship shall keep such diaries, and shall submit such reports or other returns, as may be prescribed.

Pilgrim ships to touch at Aden on the outward voyage.

203. (*1*) Every pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, shall touch at Aden, and shall not leave that port without having obtained from the proper authority a certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.

(*2*) If the master of any such ship, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained the certificate required by this section, he shall for every such offence be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

When authority at Aden may refuse to let ship leave.

204. The authority at Aden empowered to grant the certificate required under section 203 may refuse to permit the ship to leave that port if the provisions of this Part or any rule thereunder are not complied with on board such ship.

Bond where pilgrim ship proceeds on outward voyage.

205. In the case of every pilgrim ship proceeding from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident in British India have executed, in favour of the Secretary of State for India in Council, a joint and several bond, for the sum of five thousand rupees, conditioned—

(*a*) that the ship (if the voyage do not commence at Aden) shall touch at Aden on the outward voyage and there obtain the certificate required by section 203, and

(*b*) that the master and medical officer or officers (if any) shall comply with the provisions of this Part and the rules thereunder.

Medical inspection and permission required before embarkation of pilgrims.

206. (*1*) No pilgrim shall be received on board any pilgrim ship at any port or place in British India unless and until he has been medically inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

(2) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as may be prescribed:

(4) If the master of any such ship knowingly receives on board any pilgrim or contaminated article in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or fifty rupees for each article so received, or to imprisonment which may extend to three months, or to both.

Medical inspection after embarkation in certain cases.

207. (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Local Government may direct.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

(3) If the master of any such ship knowingly keeps on board any pilgrim or article ordered to be removed under this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or to fifty rupees for each article, so kept on board, or to imprisonment which may extend to three months, or to both.

Medical inspection of women.

208. So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

Issue and production of tickets and refund of passage-money.

209. (1) Every pilgrim shall be entitled, on payment of his passage-money and fulfilment of the other prescribed conditions (if any), to receive a ticket in the prescribed form, and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.

(2) Every pilgrim prevented from embarking under section 206 or removed from the ship under section 207, or otherwise prevented from proceeding shall be entitled to the refund of any passage-money he may

have paid, subject to any conditions or deductions which may be prescribed.

Sanitary taxes payable by master of pilgrim ship.

210. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.

211. If the master of a pilgrim ship fails to comply with any of the requirements of section 196, section 197 or section 199 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 198, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

212. If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks or omits or neglects to obey, any rule under this Part, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Power for Governor General in Council and Local Government to make rules.

213. (*1*) The Governor General in Council may make rules to regulate all or any of the following matters, namely:—

(*a*) the boats, anchors and cables to be provided on board pilgrim ships;

(*b*) the instruments for purposes of navigation to be supplied;

(*c*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires;

(*d*) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(*e*) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims;

(*f*) the scale on which, and the manner in which food, fuel and water are to be supplied to pilgrims, and the quality of such food, fuel and water;

(*g*) the quality, quantity and storage of the cargo to be carried;

(*h*) the allotment of the upper-deck space between the various classes of pilgrims;

(*i*) the amount and distribution of the baggage of pilgrims;

(*j*) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(*k*) the form of the statements to be furnished by the master under sections 196 and 199, and the particulars to be entered therein;

(*l*) the tonnage and steam-power to be required in the case of pilgrim ships, and the voyages to which, and seasons at which, such rules shall respectively apply;

(*m*) the licensing and appointment of medical officers and other attendants in cases where they are required by this Part to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers;

(*n*) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;

(*o*) the manner in which, and the persons by whom, the medical inspection of women shall be carried out;

(*p*) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof;

(*q*) the refund of passage-money to intending pilgrims who may not be permitted to embark or who having embarked may be removed from the ship under the powers conferred by this Part or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship;

(*r*) the functions of the master, medical officer or officers (if any) and other officers during the voyage; and

(*s*) generally, to carry out the provisions of this Part relating to pilgrim ships.

(*2*) The Local Government may make rules consistent with this Act to regulate—

(*a*) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf; and

(*b*) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.

(*3*) In making a rule under this section, the authority making it may direct that a breach of it shall be punishable with fine which may

extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(*4*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

PART V.

SAFETY.

Prevention of Collisions.

Appointment of inspectors of lights and fog-signals.

214. (*1*) The Local Government may appoint persons to inspect, in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Acts, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law.

(*2*) Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the following powers—

(*a*) he may go on board any ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make;

(*c*) he may require and enforce the production of all books, papers or documents which he considers important; and

(*d*) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Notice of deficiency to be given to master or owner by such inspectors.

215. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

216. Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear; and no Customs-collector to whom such communication is made shall grant such ship a port-clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law. Ship not to be cleared by Customs-collector till inspector certifies it is properly provided with lights, etc.

Draught of Water and Load-line.

217. (*1*) Save as otherwise provided in this Act, every ship, British or foreign, while in any port in British India shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water. Marking of deck-lines.

(*2*) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(*3*) The lines shall be white or yellow on a dark ground, or black on a light ground.

(*4*) In this Part the expression "amidships" means the middle of the length of the loadwater-line as measured from the fore side of the stem to the aft side of the stern-post.

218. (*1*) Save as otherwise provided in this Act, the master of every ship, British or foreign, while in any port in British India shall, before the time hereinafter mentioned, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre. Marking of load-lines.

(*2*) The centre of the disc shall be placed at such level below the deck-line marked, under the provisions of this Part or of the Merchant Shipping Acts, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(*3*) The position of the disc shall be fixed in accordance with the tables used from time to time by the Board of Trade subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this Part or of the Merchant Shipping Acts, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof, as may

from time to time, with the previous approval of the Governor General in Council, be sanctioned by the Local Government.

(*4*) Any load-line marked under the Merchant Shipping Acts or under any enactment of any British Possession regarding which an Order in Council under section 444 of the [1]Merchant Shipping Act, 1894, exists, and any certificate given in pursuance of these Acts or any such enactment in respect of such marking, shall have the same effect as if it had been marked or given in pursuance of this Part. 57 & 58 Vict., c. 60.

Ships with submerged load-lines deemed unsafe.

219. If any ship, British or foreign, while in any port in British India, is so loaded as to submerge in perfectly smooth salt-water the centre of the disc indicating the load-line, the ship shall be deemed to be an unsafe ship within the meaning of the provisions hereinafter contained in this Part.

Time of marking load-line in case of foreign-going vessels.

220. (*1*) When any British or foreign-going ship proceeds on any voyage from a port in British India for which the owner is required to enter the ship outwards, the disc indicating the load-line shall be marked before so entering her, or, if that is not practicable, as soon afterwards as may be.

(*2*) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

(*3*) The master of every British or foreign-going ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no shipping-master shall proceed with the engagement of a crew for any such ship until this entry has been made.

(*4*) The master of every British or foreign-going ship shall enter a copy of this statement in the official log-book (if any).

(*5*) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

Time for marking load-line in case of coasting vessels.

221. (*1*) When a ship which is a coasting vessel within the meaning of the [2]Sea Customs Act, 1878, is required to be marked with the disc indicating the load-line, she shall be so marked before the ship proceeds to sea from any port. VIII of 1878.

(*2*) The master shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Customs-collector,

[1] Collection of Statutes relating to India.
[2] General Acts, Vol. II.

or other principal officer of Customs, of such port as the Local Government may appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(*3*) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Customs-collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(*4*) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be liable to a fine which may extend to one thousand rupees.

(*5*) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

Penalty for offences relating to marking of load-line.

222. (*1*) If—

(*a*) any master of a ship neglects to cause his ship to be marked as by this Part required or to keep her so marked, or allows his ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged; or

(*b*) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Part, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy;

he shall be liable in respect of each such offence to a fine which may extend to one thousand rupees.

(*2*) The master of any ship on which any of the marks or lines prescribed by or under this Part is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be liable to a fine which may extend to one thousand rupees.

Power to appoint officer to certify position of disc.

223. The Local Government shall appoint—

(*a*) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 443 of the [1]Merchant Shipping Act, 1894, and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or

57 & 58 Vict., c. 60.

[1] Collection of Statutes relating to India.

(*b*) an officer specially selected by the Local Government for the purpose,

to approve and certify on its behalf from time to time the position of any disc indicating the load-line, and any alteration thereof, and may, with the previous sanction of the Governor General in Council, fix the fees to be taken in respect of any such approval or certificate.

Power to make rules.

224. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may make rules—

(*a*) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Part are to have effect as if any such line were drawn through the centre of the disc;

(*b*) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise;

(*c*) as to the mode of application for, and form of, certificates under this Chapter, and

(*d*) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(*2*) Rules under clause (*a*) of sub-section (*1*) may, with respect to any class or classes of ships,—

(*i*) declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and

(*ii*) modify the tables referred to in sub-section (*3*) of section 218.

Grain-Cargoes.

Stowage of cargo of grain, etc.

225. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nutkernels (hereinafter referred to as grain-cargo) shall be carried on board any British or foreign ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

Penalty for improper stowage of such cargo.

226. If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped

therein for carriage contrary to the provisions of the last foregoing section, he shall be liable to a fine which may extend to three thousand rupees.

Savings.

Saving for certain ships.

227. Nothing in the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines shall apply to—

(*i*) any sailing-ship of less than one hundred and fifty tons employed in plying coastwise between ports situated in India and Ceylon;

(*ii*) any ship of less than one hundred and fifty tons solely employed in fishing;

(*iii*) any pleasure yacht;

(*iv*) any foreign ship not bound to a port in British India for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunker coal;

(*v*) any foreign ship which, if in a port of the United Kingdom, would be entitled to the benefit of a direction of His Majesty in Council under section 445 of the Merchant Shipping Act, 1894.

57 & 58 Vict, c. 60.

Power to exclude or re-include certain classes of ships.

228. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, exclude from, or bring again within the operation of, all or any of the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines subject to such modifications thereof (if any) as may be specified in the notification, any native craft not square-rigged.

(*2*) The Governor General in Council may, by notification in the Gazette of India, exclude from, or bring again within the operation of, the provisions of this Part relating to the marking of deck and load-lines any steam-ships of less than one hundred and fifty tons which are employed in plying coastwise between ports situated in India and Ceylon and do not carry cargo.

Unseaworthy Ships.

Every person sending unseaworthy ship to sea liable to penalty.

229. (*1*) Every person who sends or attempts to send a British ship to sea from any port in British India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy

state was under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(*2*) Every master of a British ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(*3*) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(*4*) No prosecution under this section shall be instituted except by, or with the consent of, the Local Government.

Unseaworthy ships.

230. A ship is "unseaworthy" within the meaning of this Part when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of the cargo; the tackle, sails, rigging, stores, ballast, and other equipment are not such as to render her in every respect fit for the proposed voyage or service.

Obligation of owner to crew with respect to seaworthiness.

231. (*1*) In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same.

(*2*) Nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Detention of unsafe ships by the Local Government.

Power to detain unsafe ship and procedure for detention.

232. (*1*) Where a British ship in any port to which the Local Government may specially extend this section is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be

provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely:—

(*a*) The Local Government, if it has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.

(*b*) A written statement of the grounds of such detention shall be forthwith served on the master of such ship.

(*c*) When the Local Government provisionally orders the detention of a ship, it shall either refer the matter to the Court of Survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon; and, on receiving his report, may either order the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Local Government thinks necessary for the protection of human life.

(*d*) Before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey for the port where the ship is detained.

(*e*) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors for the Court of Survey or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal. If the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided in this section.

(*f*) Where a ship has been provisionally detained, the Local Government may, at any time if it thinks it expedient, refer the matter to the Court of Survey for the port where the ship is detained.

(*g*) The Local Government may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(*2*) Any person appointed by the Local Government for the purpose (in this Act referred to as a " detaining-officer ") shall have the same power as the Local Government has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(*3*) A detaining-officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

(*4*) A ship detained under this section shall not be released by reason of her British or British Indian register being subsequently closed.

(*5*) A detaining-officer shall have, for the purpose of his duties under this Part, the following powers, namely:—

(*a*) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make;

(*c*) he may require and enforce the production of all books, papers or documents which he considers important; and

(*d*) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Costs of detention and damages incidental thereto.

Liability of Government for costs and damages

233. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to

pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey. when ship wrongly detained.

234. If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable. Liability of shipowner for costs when ship rightly detained.

235. For the purposes of this Act, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the Local Government before the Court, shall be deemed to be part of the costs of the detention and survey of the ship. What included in costs of detention and survey.

236. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned: Power to require from complainant security for costs, etc.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

237. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Part to pay to the owner of the ship any costs of compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship. Costs, etc., payable by Government recoverable from complainant.

238. When a foreign ship is in a port in British India and is, whilst at that port, unsafe by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British ship with the following modifications, namely:— Application to foreign ships of provisions as to detention.

(*i*) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained;

(*ii*) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the Local Government to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Local Government shall cause the ship to be detained or released accordingly; but, if they differ, the Local Government may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship; and

(*iii*) where the owner or master of the ship appeals to the Court of Survey, the consular officer, at his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Local Government.

Delegation of powers to Port Commissioners, etc.

239. (*1*) The Local Government may, from time to time, by notification in the local official Gazette, delegate, either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port, all or any of the powers, and require the said body to discharge all or any of the functions of a Local Government under the foregoing sections of this Part, except the power of making rules.

(*2*) While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Part by or from the Government shall be recoverable in like manner by or from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment for the time being in force, credit or pay, as the case may be, the amount of any cost or damages so recovered to or from the funds held by them in trust as such body.

Installation of Wireless Telegraphy.

Commencement.

240. The provisions of this Part in regard to the installation of wireless telegraphy on ships registered in British India shall come into force on such [1]date as the Governor General in Council may, by notification in the Gazette of India, direct.

Definition.

[1]**241.** In the provisions of this Part relating to the installation of wireless telegraphy, "passenger steamer" means a steam-ship which carries more than twelve passengers.

Wireless telegraphy requirements.

[1]**242.** (*1*) Every sea-going British ship registered in British India, being a passenger steamer or a ship of sixteen hundred tons gross tonnage

[1] Sections 241 to 245 were brought into force from 5th May, 1923, *vide* Notification No. 2743, dated the 5th May, 1923, Gazette of India, 1923, Pt. I, p. 402 (*a*).

or upwards shall be provided with a wireless telegraph installation of the prescribed description, and shall maintain a wireless telegraph service of the prescribed nature, and shall be provided with such certificated operators and watchers as may be prescribed:

Provided that the Governor General in Council may, by notification in the Gazette of India, exempt from the obligations imposed by this section any ships or classes of ships if he is of opinion that, having regard to the nature of the voyages on which the ships are engaged, or other circumstances of the case, the provision of a wireless telegraph installation is unnecessary or unreasonable.

(*2*) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to one thousand rupees.

Appointment and powers of wireless telegraphy inspectors.

[1]**243.** (*1*) The Governor General in Council may appoint officers (hereinafter referred to in this Act as wireless telegraphy inspectors) for the purpose of seeing that the requirements of this Part relating to wireless telegraphy are complied with on board any ship.

(*2*) A wireless telegraphy inspector may inspect any ship for the purpose of seeing that she is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to wireless telegraphy, and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship.

(*3*) If a wireless telegraphy inspector finds that a ship is not provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(*4*) Every notice given under sub-section (*3*) shall be communicated, in the prescribed manner, to the Chief Officer of Customs of any port at which the ship may seek to obtain port-clearance, who shall order that the ship shall be detained until a certificate under the hand of a wireless telegraphy inspector is produced to the effect that the ship is properly provided with a wireless telegraph installation and certified operators and watchers in conformity with this Part.

Application to ships other than British ships registered in British India.

[1]**244.** The provisions of this Part relating to wireless telegraphy shall, as from a date three months after the coming into force of those provisions, apply to ships other than British ships registered in British India while they are within any port in British India in like manner as they apply to British ships registered in British India.

[1] *See* footnote on p. 654, *ante*.

Power to make rules.

[1]**245.** (*1*) The Governor General in Council may make rules to carry out the purposes of the provisions of this Part relating to wireless telegraphy.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the nature of the wireless telegraph installation to be provided and of the service to be maintained, and the number, grades and qualifications of certified operators and watchers to be carried:

Provided that no ship shall be required to carry more than one operator, unless more than one operator would have been required under the provisions of the Merchant Shipping (Convention) Act, 1914; 4 & 5 Geo. V, c. 50.

(*b*) the manner in which a notice given under sub-section (*3*) of section 243 shall be communicated to the Chief Officer of Customs.

PART VI.

Special Shipping Inquiries and Courts.

Shipping casualties and report thereof.

246. (*1*) For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when—

(*a*) on or near the coasts of British India, any ship is lost, abandoned, stranded or materially damaged;

(*b*) any loss of life ensues by reason of any casualty happening to, or on board of, any ship on or near those coasts;

(*c*) on or near those coasts, any ship causes loss or material damage to any other ship;

(*d*) in any place any such loss, abandonment, stranding, damage or casualty occurs to, or on board of, any British ship, and any competent witness thereof is found at any place in British India; or

(*e*) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of.

(*2*) In sub-section (*1*), the word "coasts" includes the coasts of creeks and tidal rivers.

(*3*) In the cases mentioned in clauses (*a*), (*b*) and (*c*) of sub-section (*1*). the master, pilot, harbour-master or other person in charge of the

[1] *See* footnote on p. 651, *ante*.

ship, or (where two ships are concerned) in charge of each ship, at the time of the shipping casualty, and

in cases under clause (*d*) of sub-section (*1*), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in British India from the place where the shipping casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the shipping casualty to the nearest Magistrate or, when he arrives at a port in British India, to any officer appointed by the Local Government in this behalf at that port.

(*4*) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to a fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

Report of shipping casualties to the Local Government

247. (*1*) Whenever any Magistrate or any officer appointed by the Local Government in this behalf receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the Local Government.

(*2*) Any such Magistrate or officer—

(*i*) may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage;

(*ii*) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;

(*iii*) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;

(*iv*) may require and enforce the production of all books, papers or documents which he considers important for such purpose; and

(*v*) may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Power for Local Government to appoint special Court

248. (*1*) If the Local Government to which the report prescribed by the last foregoing section has been made or within whose territories any competent witnesses of any shipping casualty have arrived or are to be found, or any evidence thereof can be obtained, is of opinion that a

of Investigation.

formal investigation into the shipping casualty is requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

Power for other Courts to hold investigations into casualties when so directed.

249. Every Colonial Court of Admiralty in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no such Court is hereby authorised, when so directed by the Local Government or by such officer as the Local Government has empowered in this behalf, to make a formal investigation into a shipping casualty.

Power for Court of Investigation to inquire into charges against masters, mates and engineers.

250. (1) Any Court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Power for Local Government to direct investigation into charges of incompetency or misconduct.

251. (1) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Local Government—

(*a*) if the master, mate or engineer holds a certificate under this Act, in any case,

(*b*) if the master, mate or engineer holds a certificate under the Merchant Shipping Acts, in the following cases:—

(*i*) where the incompetency or misconduct has occurred on a British ship on or near the coasts of British India, or on board a British ship in the course of a voyage to a port within the colony;

(*ii*) where the incompetency or misconduct has occurred on board a British ship registered in British India;

(*iii*) where the master, mate or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship is found in British India;

may transmit a statement of the case to any Court mentioned in section 249 at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(2) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

Person accused to be heard.

252. For the purpose of an investigation under this Part into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Powers of Courts as to evidence and regulation of proceedings.

253. For the purpose of any investigation under this Part, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(a) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(b) if the Court is a Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exerciseable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

Assessors.

254. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the merchant service; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the Court by this Part or any other enactment for the time being in force shall rest with the Court.

Power to arrest witnesses and cause entry and detention of vessels.

255. (1) If any Court making an investigation under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(2) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other

persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest.

(*3*) No person shall be detained by virtue of this section for more than forty-eight hours.

Power to commit for trial and bind over witnesses

256. Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

Report by Court to Local Government.

257. (*1*) The Court shall, in the case of all investigations under this Part, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

(*2*) In cases in which, under the Merchant Shipping Acts, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

Suspension and Cancellation of Certificates and Grant of fresh Certificates.

Saving of power to cancel and suspend certificates and remove master under English Acts.

258. Nothing in this Part shall affect the powers conferred by the Merchant Shipping Acts, on the Courts conducting investigation under this Part, to cancel or suspend certificates granted under any of the said Acts, or the power to remove the master of a ship conferred by section 472 of the [1]Merchant Shipping Act, 1894. 57 & 58 Vict., c. 60.

Power to issue local certificates in lieu of cancelled or suspended certificates.

259. (*1*) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

[1] Collection of Statutes relating to India.

(3) The Local Government may act under this section either in pursuance of a recommendation from the Court or of its own motion.

Power for Local Government to suspend or cancel certificates in certain cases.

260. (1) Any certificate which has been granted by any Local Government to any master, mate or engineer, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say:—

(a) if, on any investigation made under the Merchant Shipping Acts, or on any investigation made by any Court or tribunal for the time being authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;

(b) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and

(c) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the [1]Merchant Shipping Act, 1894, or by any other law for the time being in force.

57 & 58 Vict., c. 60.

(2) Notwithstanding anything contained in this Act, the Local Government may, at any time, without any formal investigation, suspend or cancel any engine driver's certificate granted by it if, in its opinion, the holder is, or has become, unfit to act as an engine driver.

Report to other Local Governments.

261. If the Local Government which cancels or suspends a certificate of a master, mate or engineer is not the Local Government by or under the authority of which the same was granted, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to that Local Government.

Report to Board of Trade.

262. Every Local Government cancelling or suspending under section 260 the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Power to revoke cancellation or suspension and grant new certificates.

263. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section 260, or grant, without examination to any person whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

[1] Collection of Statutes relating to India.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

Power of Court of Investigation or Inquiry as to certificates granted by a Local Government.

264. (*1*) A certificate of a master, mate or engineer which has been granted by a Local Government under this Act may be cancelled or suspended—

(*a*) by a Court holding a formal investigation into a shipping casualty under this Part if the Court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer;

(*b*) by a Court holding an investigation under this Part into the conduct of the master, mate or engineer if the Court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct.

(*2*) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate.

(*3*) Where the Court cancels or suspends a certificate, the Court shall forward it to the Local Government, together with the report which it is required by this Part to transmit to that Government.

(*4*) A certificate shall not be cancelled or suspended by a Court under this section unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

(*5*) The duties imposed and powers conferred by sections 261, 262 and 263 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (*3*), as if such Local Government had itself cancelled or suspended the certificate under section 260.

Power to remove master and appoint a new master

265. (*1*) The principal Court of ordinary criminal jurisdiction at any port in British India, where there is no Colonial Court of Admiralty, may remove the master of any ship within the jurisdiction of that Court if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary.

(*2*) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.

(3) The Court may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit.

Delivery of certificate cancelled or suspended.

266. (1) A master, mate, or engineer whose certificate is cancelled or suspended by any Court or by the Local Government shall deliver his certificate—

(a) if cancelled or suspended by a Court, to that Court;

(b) if cancelled or suspended by a Local Government, to that Local Government, or to a shipping-master or other person appointed in this behalf by that Local Government.

(2) If a master, mate or engineer fails to comply with this section, he shall for each offence be liable to a fine which may extend to five hundred rupees.

Investigations into Explosions.

Power to investigate causes of explosions on board steamships.

267. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(2) The person or persons so directed may enter into and on the steam-ship, with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

Courts of Survey.

Constitution of Court of Survey.

268. (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

(2) The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

(3) The assessors shall be persons of nautical engineering or other special skill or experience.

(4) Subject to the provisions of Part V as regards foreign ships, one of the assessors shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the Local Government in the

local official Gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

Powers and procedure of Court of Survey.

269. (*1*) The Judge shall, on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors to meet forthwith in the prescribed manner.

(*2*) The Court of Survey shall hear every case in open Court.

(*3*) The Judge and each assessor shall, for the purposes of this Act, have the same powers of inspection, and of enforcing the attendance of witnesses and the production of evidence, as are by this Act conferred on a detaining-officer.

(*4*) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

(*5*) The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(*6*) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Local Government, may attend at any inspection or survey made in pursuance of this section.

(*7*) The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

Power of Local Government to make rules with respect to Court of Survey.

270. The Local Government may make rules to carry into effect the provisions of this Act with respect to a Court of Survey, and, in particular and without prejudice to the generality of the foregoing power, with respect to—

(*a*) the procedure before the Court;

(*b*) the requiring, on an appeal, of security for costs and damages;

(*c*) the amount and application of fees; and

(*d*) the ascertainment, in case of dispute, of the proper amount of costs.

Scientific Referees.

Reference in difficult cases to scientific persons.

271. (*1*) If the Local Government is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty, or important principle, it may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by

agreement between the Port-officer and the appellant, or in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

(*2*) The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(*3*) The referee or referees shall have the same powers as a Judge of the Court of Survey.

PART VII.

Wreck and Salvage.

"Wreck" defined.

272. In this Part " wreck " includes the following when found in the sea or any tidal water or on the shores thereof:—

(*a*) goods which have been cast into the sea and then sink and remain under water;

(*b*) goods which have been cast or fall into the sea and remain floating on the surface;

(*c*) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;

(*d*) goods which are thrown away or abandoned; and

(*e*) a ship abandoned without hope or intention of recovery.

Appointment of receivers.

273. (*1*) The Local Government may, by notification in the local official Gazette, appoint such person as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may prescribe.

(*2*) Persons so appointed shall be called receivers of wreck.

Rules to be observed by persons finding wreck.

274. (*1*) Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,—

(*a*) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(*b*) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

(*2*) Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by sub-section (*1*) shall be

liable to a fine which may extend to one thousand rupees, and, in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

Government or person finding wreck entitled to salvage.

275. (*1*) Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of this Part by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(*2*) Any dispute arising concerning the amount due under this section shall be determined by a Magistrate upon application to him for that purpose by either of the disputing parties.

Notice to be given by receiver.

276. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the Local Government may prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

Wreck may in certain cases be sold.

277. If after the publication of such notification the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof, the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and, if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

Proceeds how applied.

278. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes his claim within one year from the date of the sale.

Savings.

279. Nothing in this Part shall be deemed to—

(*a*) affect the declaration of the twenty-third day of October, 1889, in Schedule IV, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

(*b*) affect section 29 of the [1]Indian Ports Act, 1908, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section. XV of 1908.

[1] General Acts, Vol. VI.

PART VIII.

LEGAL PROCEEDINGS.

Certain persons to be deemed Public Servants.

280. The following persons shall be deemed to be public servants XLV of 1860. within the meaning of the [1]Indian Penal Code, namely:—

(*a*) Every surveyor appointed under this Act.

(*b*) Every judge, assessor or other person acting under Part VI.

(*c*) Every person appointed under this Act to report information as to shipping casualties.

(*d*) Every person authorised under this Act to make any investigation under Part VI, and all persons whom he calls to his aid.

(*e*) Every person directed to make an investigation into an explosion on a steam-ship under section 267.

(*f*) Every Wireless Telegraphy Inspector appointed under this Act.

Jurisdiction of Magistrates.

281. No Magistrate shall try any offence against this Act or any rule made thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Place of trial of the offender.

282. Any person committing any offence against this Act or any rule thereunder, may be tried for the offence in any place in which he may be found or which the Local Government may, by notification in the local official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Depositions to be received in evidence when witnesses cannot be produced.

283. (*1*) Whenever, in the course of any legal proceeding under this Act instituted at any place in British India before any Court or Magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be), after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in His Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the place where the proceeding is instituted), or before any British consular officer, if elsewhere, shall be admissible in evidence—

(*a*) if the deposition is authenticated by the signature of the presiding officer of the Court or of the Justice, Magistrate or consular officer before whom it is made;

[1] General Acts, Vol. I.

(*b*) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness;

(*c*) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(*2*) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

Enforcing detention of ship.

284. (*1*) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer on full pay in the Naval or Military service of His Majesty, any commander or first officer in the Royal Indian Marine Service, or any port officer, harbour master, conservator of a port, or officer of Customs may detain the ship.

(*2*) If any ship after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be liable to a fine which may extend to one thousand rupees.

(*3*) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this Act to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be liable to a fine which may extend to one thousand rupees.

(*4*) When any owner or master is convicted of an offence under sub-section (*3*), the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under that sub-section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

Levy of wages, etc., by distress of moveable property.

285. When an order under this Act for the payment of any wages or other money is made by a shipping-master or a Magistrate and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate.

Levy of wages, fines, etc., by distress of ship

286. Where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in

the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Service of documents.

287. Where for the purposes of this Act any document is to be served on any person, that document may be served—

(*a*) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and

(*b*) If the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the person being or appearing to be in command or charge of the ship; and

(*c*) if the document is to be served on the master of a ship, where there is no master and the ship is in British India, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in British India, or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Application of fines.

288. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

PART IX.

SUPPLEMENTAL.

Powers to see Act is complied with.

289. (*1*) Where a shipping-master has reasons to suspect that the provisions of this Act are not complied with, that officer may—

(*a*) enter on board any British ship, and

(*b*) muster and examine the crew.

(*2*) If any person obstructs any shipping-master in the execution of his duty under this section, he shall be liable to a fine which may extend to one hundred rupees.

Ship Surveyors.

Power to appoint examiners and

290. The Local Government may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising

to make rules as to qualifications of ship surveyors.

the profession of a ship surveyor at any port in the territories administered by such Government, and, subject to the control of the Governor General in Council, make rules—

(*a*) for the conduct of such examinations and the qualifications to be required,

(*b*) for the grant of certificates to qualified persons,

(*c*) for the fees to be paid for such examinations and certificates,

(*d*) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and

(*e*) for the suspension and cancellation of such certificates.

No person to practise as ship surveyor unless qualified.

291. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 290, exercise such profession in such port unless he holds a certificate granted under that section:

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the Local Government from the operation of this section.

Penalty for practising as ship surveyor without certificate.

292. Any person exercising the profession of a ship surveyor in contravention of the provisions of section 291 shall be liable to a fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him.

Powers of person appointed or authorised to survey ship.

293. Any person appointed or authorised under this Act to survey a ship may, in the execution of his duties, go on board the ship and inspect the same and every part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

Provisions with respect to rules.

294. All rules made under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and, on such publication, shall have effect as if enacted in this Act.

Protection to persons acting under Act.

295. No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Repeal.

296. (*1*) The enactments mentioned in Schedule V are hereby repealed to the extent specified in the fourth column thereof.

(*2*) Any body constituted, and any office established under any enactment hereby repealed, shall continue and be deemed to have been constituted, or established, as the case may be, under this Act.

(*3*) The mention of particular matters in this section shall not be held to prejudice or affect the general application of the provisions of the [1]General Clauses Act, 1897, with regard to the effect of repeals. X of 1897.

SCHEDULE I.

(*See section 9.*)

TABLE A.

FEES TO BE CHARGED FOR MATTERS TRANSACTED AT SHIPPING OFFICES.

1. Engagement or discharge of crews:—

	Rs.	A.	P.
In ships under 100 tons	3	0	0
from 100 to 200 tons . .	7	0	0
200 to 300 ,, . .	10	0	0
300 to 400 ,, . .	12	8	0
400 to 500 ,, . .	15	0	0
500 to 600 ,, . .	17	8	0
600 to 700 ,, . .	20	0	0
700 to 800 ,, . .	22	8	0
800 to 900 ,, . .	25	0	0
900 to 1,000 ,, . .	27	8	0
above 1,000 tons . . .	30	0	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen separately—one rupee for each seaman.

TABLE B.

SUMS TO BE DEDUCTED FROM WAGES BY WAY OF PARTIAL REPAYMENT OF FEES IN TABLE A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge—

	Rs.	A.	P.
From wages of any mate, purser, engineer, surgeon, carpenter or steward . .	0	12	0
From wages of all others except apprentices	0	8	0

[1] General Acts, Vol. IV.

2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge—eight annas.

SCHEDULE II.

(*See section 131.*)

Rates of Fees payable in respect of Survey of Steam-ships.

	Tons.	Rs.
For steam-ships of less than	200	40
„ „ 200 tons and up to	350	50
„ „ 350 „ „ „	700	60
„ „ 700 „ „ „	1,000	80
„ „ 1,000 „ „ „	1,500	100
„ „ 1,500 „ and upwards	...	120

SCHEDULE III.

(*See section 146.*)

PART I.

(*Applied sections of the Merchant Shipping Act, 1894.*)

Expenses of rescue and conveyance of wrecked passengers.

332. If any passenger, whether a cabin or a steerage passenger, is either taken off any ship which is carrying any steerage passenger on a voyage from any part of His Majesty's dominions and is damaged, wrecked, sunk or otherwise destroyed, or if any such passenger is picked up at sea from any boat, raft, or otherwise, it shall be lawful—

(*a*) if the port to which such passenger (in this Act referred to as "wrecked passenger") is conveyed is in the United Kingdom, for a Secretary of State; and

(*b*) if the port is in a British possession, for the Governor of that possession, or any person authorised by him for the purpose; and

(*c*) if the port is elsewhere, for the British Consular Officer there;

to defray all or any part of the expenses thereby incurred.

Forwarding of passengers by Governors or Consuls.

333. (*1*) If any passenger, whether a cabin or a steerage passenger from any ship which is carrying any steerage passengers on a voyage from any port in His Majesty's dominions, finds himself, without any neglect or default of his own, at any port outside the British Islands

other than the port for which the ship was originally bound, or at which he, or the Board of Trade, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful—

(*a*) if the place is in a British possession, for the Governor of that possession, or any person authorised by the Governor for the purpose; and

(*b*) if the place is elsewhere, for the British Consular Officer there;

to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of the passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or convey within six weeks thereafter the passenger to his original destination, and forwards or conveys him accordingly within that period.

(*2*) A passenger so forwarded by, or by the authority of, a Governor or a British Consular Officer shall not be entitled under this Part of this Act to the return of his passage money, or to any compensation for loss of passage.

Recovery of expenses incurred in conveying wrecked passengers and forwarding passengers.

334. (*1*) All expenses incurred under this Part of this Act by, or by the authority of, a Secretary of State, Governor of a British possession, or Consular Officer, in respect of a wrecked passenger, or forwarding of a passenger to his destination, including the cost of maintaining the passenger, until forwarded to his destination, and of all necessary bedding, provisions, and stores, shall be a joint and several debt to the Crown from the owner, charterer, and master of the ship on board of which the passenger had embarked.

(*2*) In any proceeding for the recovery of that debt, a certificate purporting to be under the hand of a Secretary of State, Governor, or Consular Officer, and stating the circumstances of the case, and the total amount of the expenses, shall be admissible in evidence in manner provided by this Act, and shall be sufficient evidence of the amount of the expenses, and of the fact that the same were duly incurred, unless the defendant specially pleads and duly proves that the certificate is false and fraudulent, or that the expenses were not duly incurred under this Act.

(*3*) The sum recovered on account of the expenses shall not exceed twice the total amount of passage money which the owner, charterer, or master of the emigrant ship proves to have been received by him or on his account, or to be due to and recoverable by him or on his account in respect of the whole number of passengers, whether cabin or steerage, who embarked in the ship.

Validity of insurance.

335. A policy of assurance effected in respect of any steerage passage or compensation money by any person by this Part of this Act made

of passage money.

liable, in the events aforesaid, to provide such passage or to pay such money, or in respect of any other risk under this Part of this Act, shall not be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

PART II.

Form of Governor's or Consul's Certificate of Expenditure in the case of Passengers shipwrecked, etc.

(See applied section 334 above.)

I hereby certify that, acting under, and in conformity with, the provisions of Part III of the Indian Merchant Shipping Act, 1923, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (*a*), and in forwarding to their destination passengers [including cabin passengers (*b*),] who were proceeding from to in the passenger-ship which was wrecked at sea, etc. (*c*).

(*a*) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, etc., was not supplied, alter the certificate to suit the facts of the case.

(*b*) *N.B.*—2. Omit words in brackets when necessary.

(*c*) *N.B.*—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

And I further certify, for the purposes of Part of the said Act, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act. Given under my hand this day of , 19 .

Governor of, etc. (or, as the case may be) *His Britannic Majesty's Consul at*

SCHEDULE IV.

(See section 279.)

Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic with reference to the disposal of the proceeds of Wrecks on their respective Coasts.

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of

the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements:—

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the ship-wrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.	Victoria.
The Dominion of Canada.	Queensland.
Newfoundland.	Tasmania.
The Cape.	South Australia.
Natal.	Western Australia.
New South Wales.	New Zealand:

Provided always that the stipulations of the present Declaration shall be made applicable to any of the abovenamed Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugène Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(L. S.) LYTTON.

(L. S.) E. SPULLER.

SCHEDULE V.

(See section 296.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1850	XIX	The Apprentices Act, 1850.	Sections 5 and 7 so far as they have not been repealed. In section 10, the words "or, if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841, to make registry of ships at the port where the apprentice is to begin his service" and the words "or registering officer." In sections 11, 12, and 20, the words "or registering officer."
1859	I	The Indian Merchant Shipping Act, 1859.	The whole so far as it has not been repealed.
1874	XV	The Laws Local Extent Act, 1874.	So much of the First Schedule as relates to Act I of 1859.
1876	XIII	The Indian Merchant Seamen's Act, 1876.	The whole.
1880	VII	The Indian Merchant Shipping Act, 1880.	The whole so far as it has not been repealed.
1883	V	The Indian Merchant Shipping Act, 1883.	The whole except section 38.
1884	VII	The Indian Steam-ships Act, 1884.	The whole so far as it has not been repealed.
1887	X	The Native Passenger Ships Act, 1887.	The whole.
1890	III	The Indian Steam-ships Law Amendment Act, 1890.	The whole so far as it has not been repealed.

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1891	VI	The Indian Merchant Shipping Law Amendment Act, 1891.	The whole so far as it has not been repealed.
1891	XII	The Amending Act, 1891	So much of the Second Schedule as relates to the Indian Merchant Seamen's Act, 1876, the Indian Merchant Shipping Act, 1880, the Indian Merchant Shipping Act, 1883, and the Indian Steam-ships Law Amendment Act, 1890.
1891	XVII	The Deck and Load Lines Act, 1891.	The whole.
1895	XIV	The Pilgrim Ships Act, 1895.	The whole.
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Indian Merchant Shipping Act, 1859, the Indian Steam-ships Law Amendment Act, 1890, and the Indian Merchant Shipping Law Amendment Act, 1891.
1900	VI	The Lower Burma Courts Act, 1900.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1883.
1902	III	The Indian Steam-ships (Amending and Validation) Act, 1902.	Section 3.
1906	VI	The Indian Merchant Shipping (Amendment) Act, 1906.	The whole.
1908	XVIII	The Indian Merchant Shipping (Amendment) Act, 1908.	The whole.
1909	I	The Indian Steam-ships Law Amendment Act, 1909.	The whole so far as it has not been repealed.
1914	IV	The Decentralisation Act, 1914.	So much of the Schedule, Part I, as relates to the Pilgrim Ships Act, 1895.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1859, the Indian Merchant Seamen's Act, 1876, the Indian Steam-ships Act, 1884, and the Deck and Load Lines Act, 1891.
1917	I	The Inland Steam-Vessels Act, 1917.	So much of Schedule II as relates to the Inland Steam-ships Law Amendment Act, 1890, and the Indian Steam-ships Law Amendment Act, 1909.

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1919	XXV	The Indian Merchant Shipping Law Amendment Act, 1919.	The whole.
1920	I	The Indian Steam-ships (Amendment) Act, 1920.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	So much of the First Schedule as relates to the Indian Merchant Shipping Act, 1880, the Indian Steam-ships Act, 1884, and the Native Passenger Ships Act, 1887.
1920	XLI	The Indian Wireless Telegraphy (Shipping) Act, 1920.	The whole.

ACT No. XXIII OF 1923.[1]

[*2nd April, 1923.*]

An Act for the removal of doubts regarding the right of women to be enrolled and to practise as legal practitioners.

WHEREAS it is expedient to remove certain doubts which have arisen as to the right of women to be enrolled and to practise as legal practitioners; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Legal Practitioners (Women) Act, 1923.

(*2*) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas.

Definition.

2. In this Act, "legal practitioner" means a legal practitioner as defined in section 3 of the [2]Legal Practitioners Act, 1879.

XVIII of 1879.

Women not to be disqualified by reason only of sex.

3. Notwithstanding anything contained in any enactment in force in British India or in the letters patent of any High Court or in any rule or order made under or in pursuance of any such enactment or letters patent, no woman shall, by reason only of her sex, be disqualified from being admitted or enrolled as a legal practitioner or from practising as such; and any such rule or order which is repugnant to the provisions of this Act shall, to the extent of such repugnancy, be void.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 160.
[2] General Acts, Vol. III.

ACT No. XXVI OF 1923.[1]

[*25th July, 1923.*]

An Act further to amend the Code of Civil Procedure, 1908, for certain purposes.

WHEREAS it is expedient further to amend the [2]Code of Civil Procedure, 1908, for certain purposes hereinafter appearing; It is hereby V of 1908. enacted as follows:—

Short title.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1923.

Amendment of section 60, Act V of 1908.

2. In clause (*i*) of sub-section (*1*) of section 60 of the [2]Code of Civil Procedure, 1908, for the word "twenty", wherever it occurs, the word V of 1908. "forty", and for the word "forty" the word "eighty", shall be substituted.

ACT No. XXVII OF 1923.[3]

[*25th July, 1923.*]

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the [4]Indian Income-tax Act, 1922, for certain purposes hereinafter appearing; It is hereby XI of 1922. enacted as follows:—

Short title.

1. This Act may be called the Indian Income-tax (Further Amendment) Act, 1923.

Amendment of section 4, Act XI of 1922.

2. In sub-section (*2*) of section 4 of the [4]Indian Income-tax Act, 1922 XI of 1922. (hereinafter referred to as the said Act), for the words "shall be deemed to be profits and gains of the year in which they are received or brought into British India," the following words shall be substituted, namely:—

[*Vide* p. 308, *supra*.]

Insertion of new Chapter VA in Act XI of 1922.

3. After Chapter V of the said Act the following Chapter shall be inserted, namely:—

[*Vide* p. 325, *supra*.]

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 240.
[2] General Acts, Vol. VI.
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 246.
[4] *Supra.*

ACT No. XXVIII OF 1923.[1]

[*25th July, 1923.*]

An Act to repeal the Acts which provide for the levy of a cess on indigo exported from British India.

WHEREAS it is expedient to repeal the Acts which provide for the levy of a cess on indigo exported from British India; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indigo Cess (Repealing) Act, 1923.

(*2*) It shall come into force on the first day of August, 1923.

III of 1918. V of 1921.

Repeal.

2. The Indigo Cess Act, 1918, and the Indigo Cess (Amendment) Act, 1921, are hereby repealed.

ACT No. XXIX OF 1923.[2]

[*27th July, 1923.*]

An Act further to amend the Code of Civil Procedure, 1908.

V of 1908.

WHEREAS it is expedient further to amend the [3]Code of Civil Procedure, 1908; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1923.

V of 1908.

Amendment of rule 32 of Order XXI in Schedule I, Act V of 1908.

2. In sub-rule (*1*) of rule 32 of Order XXI in the First Schedule to the [3]Code of Civil Procedure, 1908 (hereinafter referred to as the said Order), after the word "enforced" the following shall be inserted, namely:—

> "in the case of a decree for restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction".

Amendment of rule 33 of Order XXI in Schedule I, Act V of 1908.

3. In rule 33 of the said Order,—

(*a*) in sub-rule (*1*), after the words "passing a decree" the words "against a husband" shall be inserted, and for the words "shall not be executed by detention in prison" the words "shall be executed in the manner provided in this rule" shall be substituted; and

(*b*) in sub-rule (*2*), the words "and the decree-holder is the wife" shall be omitted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 247.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 184, and for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 111.
[3] General Acts, Vol. VI.

ACT No. XXX OF 1923.[1]

[*30th July, 1923.*]

An Act further to amend the Special Marriage Act, 1872.

WHEREAS it is expedient further to amend the [2]Special Marriage Act, 1872; It is hereby enacted as follows:— III of 1872.

Short title.

1. This Act may be called the Special Marriage (Amendment) Act, 1923.

Amendment of preamble, Act III of 1872.

2. In the preamble to the Special Marriage Act, 1872 (hereinafter referred to as the said Act), after the words "Jaina religion" the following words shall be inserted, namely:— III of 1872.

"and for persons who profess the Hindu, Buddhist, Sikh or Jaina religion".

Amendment of section 2, Act III of 1872.

3. In section 2 of the said Act, after the words "Jaina religion" the following words shall be inserted, namely:-

"or between persons each of whom professes one or other of the following religions, that is to say, the Hindu, Buddhist, Sikh or Jaina religion".

Addition of new sections to Act III of 1872.

4. After section 21 of the said Act the following sections shall be inserted, namely:—

Effect of certain marriages on coparcenary.

"22. The marriage under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family.

Rights of succession in certain cases of marriage under Act.

23. A person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have the same rights and be subject to the same disabilities in regard to any right of succession to any property as a person to whom the Caste Disabilities Removal Act, 1850, applies: XXI of 1850.

Provided that nothing in this section shall confer on any person any right to any religious office or service, or to the management of any religious or charitable trust.

Succession to the property of parties married under Act.

24. Succession to the property of any person professing the Hindu, Buddhist, Sikh or Jaina religion, who marries under this Act, and to the property of the issue of such marriage, shall be regulated by the provisions of the Indian Succession Act, 1865. X of 1865.

Person marrying under Act not to have right of adoption.

25. No person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have any right of adoption.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 114; for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 133.

[2] General Acts, Vol. II.

26. When a person professing the Hindu, Buddhist, Sikh or Jaina religion marries under this Act, his father shall, if he has no other son living, have the right to adopt another person as a son under the law to which he is subject." Adoption by father of person marrying under Act.

5. In the Second Schedule to the said Act, after the words "Jaina religion" in both places where they occur, the following shall be inserted, namely:— Amendment of Second Schedule to Act III of 1872.

"*or* (*as the case may be*) I profess the Hindu, or the Buddhist, or the Sikh, or the Jaina religion."

ACT No. XXXI OF 1923.[1]

[*31st July, 1923.*]

An Act to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes.

XLVIII of 1920. XLIX of 1920.

WHEREAS it is expedient to amend the [2]Indian Territorial Force Act, 1920, and the [2]Auxiliary Force Act, 1920, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Territorial and Auxiliary Forces (Amendment) Act, 1923. Short title.

XLVIII of 1920.

2. To section 11 of the [2]Indian Territorial Force Act, 1920, the following sub-section shall be added, namely:— Amendment of section 11, Act XLVIII of 1920.

[*Vide* p. 214, *supra*.]

XLIX of 1920.

3. Section 21 of the [2]Auxiliary Force Act, 1920, shall be re-numbered as sub-section (*1*) of section 21, and to that section as so re-numbered the following sub-section shall be added, namely:— Amendment of section 21, Act XLIX of 1920.

[*Vide* p. 223, *supra*.]

ACT No. XXXII OF 1923.[3]

[*31st July, 1923.*]

An Act further to amend the Indian Lunacy Act, 1912.

IV of 1912.

WHEREAS it is expedient further to amend the [4]Indian Lunacy Act, 1912; It is hereby enacted as follows:—

1. This Act may be called the Indian Lunacy (Amendment) Act, 1923. Short title.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 243.
[2] *Supra*.
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 257.
[4] General Acts, Vol. VII.

Amendment of section 20, Act IV of 1912.

2. To section 20 of the [1]Indian Lunacy Act, 1912, the following proviso shall be added, namely:— IV of 1912.

"Provided that no reception order shall continue to have effect—

(*a*) after the expiry of thirty days from the date on which it was made, unless the lunatic has been admitted to the place mentioned therein within that period, or

(*b*) after the discharge, under the provisions of this Act, of the lunatic from such place or from any asylum to which he may have been removed."

ACT No. XXXIII OF 1923.[2]

[*31st July, 1923.*]

An Act further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes.

WHEREAS it is expedient further to amend the [1]Indian Army Act, 1911, and the [1]Indian Lunacy Act, 1912, for certain purposes hereinafter appearing; It is hereby enacted as follows:— VIII of 1911. IV of 1912.

Short title.

1. This Act may be called the Indian Army (Amendment) Act, 1923.

Amendment of section 7, Act VIII of 1911.

2. In section 7 of the [1]Indian Army Act, 1911 (hereinafter referred to as the said Act),— VIII of 1911.

(*a*) to clause (*1*) after the words "land forces" the following words shall be added, namely:—

"and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty's Air Force"; and

(*b*) in clause (*7*), after the words "Army Act" the words "or the Air Force Act" shall be added.

Amendment of section 91A, Act VIII of 1911.

3. To section 91A of the said Act the following sub-section shall be added, namely:—

"(*7*) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act."

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[1] General Acts, Vol. VII.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 245.

4. In Chapter VIII of the said Act, after section 103 the following section shall be inserted, namely:— Insertion of new section 103A in Act VIII of 1911.

"103A. (*1*) Whenever in the course of a trial by court-martial it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the President of the Court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a court-martial whose finding does not require confirmation, to the prescribed officer. Provision in the case of accused being lunatic.

(*2*) A confirming officer to whom a case is reported under sub-section (*1*) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(*3*) A prescribed officer to whom a case is reported under sub-section (*1*) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for the orders of the Governor General in Council.

(*4*) On receipt of a report under sub-section (*3*), the Governor General in Council may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(*5*) Where an accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention, the prescribed officer may—

(*a*) if such person is in custody under sub-section (*3*), on the report of a medical officer that he is capable of making his defence, or

(*b*) if such person is detained under sub-section (*4*), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure, 1898,

V of 1898.

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a Criminal Court.

(*6*) A copy of every order made by the prescribed officer under sub-section (*5*) shall forthwith be sent to the Governor General in Council."

IV of 1912.

5. In the Indian Lunacy Act, 1912— Amendment of sections 3, 24, 30 and 35, Act IV of 1912.

(*a*) to clause (*4*) of section 3 after the figures "1900" the words and figures "or of section 103A of the Indian Army Act, 1911" shall be added;

VIII of 1911.

(*b*) in section 24, after the figures "1900" the words and figures "or under section 103A of the Indian Army Act, 1911" shall be inserted;

(*c*) in sub-section (*1*) of section 30, after the figures "1898" the words and figures "or under the provisions of section 103A of the Indian Army Act, 1911" shall be inserted; and

(*d*) in sub-section (*2*) of section 35, after the figures "1898" the words and figures "or under section 103A of the Indian Army Act, 1911" shall be inserted.

ACT No. XXXIV OF 1923.[1]

[*31st July, 1923.*]

An Act to amend the Cutchi Memons Act, 1920.

WHEREAS it is expedient to amend the [2]Cutchi Memons Act, 1920; XLVI of 1920.
It is hereby enacted as follows:—

Short title

1. This Act may be called the Cutchi Memons (Amendment) Act, 1923.

Amendment of section 2, Act XLVI of 1920.

2. (*1*) Section 2 of the [2]Cutchi Memons Act, 1920 (hereinafter referred to as the said Act), shall be re-numbered as sub-section (*1*) of section 2, and in that sub-section as re-numbered for the words "Any Cutchi Memon who— XLVI of 1920.

(*a*) has attained the age of majority, and

(*b*) is resident in British India,"

the following shall be substituted, namely:—

[*Vide* p. 177, *supra*.]

(*2*) To the same section the following sub-section shall be added, namely:—

[*Vide* p. 177, *supra*.]

Amendment of section 3, Act XLVI of 1920.

3. Sub-section (*2*) of section 3 of the said Act shall be re-numbered as sub-section (*3*), and for sub-section (*1*) of the same section the following sub-sections shall be substituted, namely:—

[*Vide* p. 177, *supra*.]

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 258.
[2] *Supra*.

ACT No. XXXV OF 1923.[1]

[*31st July, 1923.*]

An Act further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient to give to mukhtars the right to practise in certain Criminal Courts and further to amend the [2]Code of Criminal Procedure, 1898, for that purpose; It is hereby enacted as follows:—

V of 1898.

1. This Act may be called the Code of Criminal Procedure (Further Amendment) Act, 1923. Short title.

2. In clause (*r*) of sub-section (*1*) of section 4 of the [2]Code of Criminal Procedure, 1898, after the words "means a pleader" the words "or a mukhtar" shall be inserted, and the words "mukhtar or" shall be omitted. Amendment of section 4, Act V of 1898.

V of 1898.

ACT No. XXXVI OF 1923.[3]

[*3rd August, 1923.*]

An Act further to amend the Indian Paper Currency Act, 1923.

WHEREAS it is expedient further to amend the [4]Indian Paper Currency Act, 1923; It is hereby enacted as follows:—

X of 1923.

1. This Act may be called the Indian Paper Currency (Amendment) Act, 1923. Short title.

2. To clause (*a*) of sub-section (*8*) of section 18 of the [4]Indian Paper Currency Act, 1923 (hereinafter referred to as the said Act), after the word "purchased" the following words shall be added, namely:— Amendment of section 18, Act X of 1923.

X of 1923.

[*Vide* p. 460, *supra*.]

3. To sub-section (*3*) of section 19 of the said Act the following *Explanation* shall be added, namely:— Amendment of section 19, Act X of 1923.

[*Vide* p. 461, *supra*.]

4. In section 20 of the said Act, for the word "fifty" the words "one hundred and twenty" shall be substituted. Amendment of section 20, Act X of 1923.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 67; for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 129.

[2] General Acts, Vol. V.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 248.

[4] *Supra*.

ACT No. XXXVII OF 1923.[1]

[*3rd August, 1923.*]

An Act further to amend the Code of Criminal Procedure, 1898, for certain purposes.

WHEREAS it is expedient further to amend the [2]Code of Criminal Procedure, 1898, for certain purposes hereinafter appearing; It is hereby enacted as follows:— V of 1898.

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1923.

(*2*) It shall come into force on such date[3] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of section 364, Act V of 1898.

2. In section 364 of the [2]Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), V of 1898.—

(*a*) in sub-section (*3*), the words "unless he is a Presidency Magistrate," shall be omitted; and

(*b*) in sub-section (*4*), for the words and figures "or section 362, sub-section (*2A*)" the following shall be substituted, namely:—

"or in the course of a trial held by a Presidency Magistrate."

Substitution of new section for section 388, Act V of 1898.

3. For section 388 of the said Code the following section shall be substituted, namely:—

Suspension of execution of sentence of imprisonment.

"388. (*1*) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

(*a*) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 242.

[2] General Acts, Vol. V.

[3] This Act was brought into force from the 1st September, 1923, *vide* Notification No. F. 222-23-2, dated the 10th August, 1923, Gazette of India, 1923, Pt. I, p. 901.

(*b*) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(*2*) The provisions of sub-section (*1*) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment."

Amendment of section 562, Act V of 1898.

4. After sub-section (*1*) of section 562 of the said Code the following sub-section shall be inserted, namely:—

Conviction and release with admonition.

"(*1A*) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the [1]Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition."

XLV of 1860.

Amendment of Schedule V, Act V of 1898.

5. In Schedule V to the said Code, in Form XXXVIIA,—

(*a*) the words "until the day of " shall be omitted; and

(*b*) for the words "on that day;" and for the words "on the said day of next," and for the words "on the day of next;" the words "on the following date (*or* dates), namely:— " shall be substituted.

Repeal.

6. Sections 98 and 104 of the [2]Code of Criminal Procedure (Amendment) Act, 1923, are hereby repealed.

XVIII of 1923.

[1] General Acts, Vol. V.
[2] *Supra.*

ACT No. XXXVIII OF 1923.[1]

[*5th August, 1923.*]

An Act further to amend the Land Acquisition Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the [2]Land Acquisition Act, 1894, for certain purposes hereinafter appearing; It is hereby enacted as follows:— I of 1894.

Short title and commencement.

1. (*1*) This Act may be called the Land Acquisition (Amendment) Act, 1923.

(*2*) It shall come into force on such date[3] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of section 4, Act I of 1894.

2. In sub-section (*1*) of section 4 of the [2]Land Acquisition Act, 1894 (hereinafter referred to as the said Act), after the word "locality", where it first occurs, the words "is needed or" shall be inserted. I of 1894.

Insertion of new section 5A in Act I of 1894.

3. After section 5 of the said Act the following heading and section shall be inserted, namely:—

"*Objections.*

Hearing of objections.

5A. (*1*) Any person interested in any land which has been notified under section 4, sub-section (*1*), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(*2*) Every objection under sub-section (*1*) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

(*3*) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act."

Amendment of section 6, Act I of 1894.

4. In sub-section (*1*) of section 6 of the said Act, for the words "whenever it appears to the Local Government" the following shall be substituted, namely:—

"when the Local Government is satisfied, after considering the report, if any, made under section 5A, sub-section (*2*)".

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 260; for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 261.

[2] General Acts, Vol. IV.

[3] This Act comes into force from 1st January 1924, *vide* Notification No. 919, dated the 30th November 1923, Gazette of India, 1923, Pt. I, p. 1684.

5. In section 11 of the said Act, after the words "the value of the land," the words "at the date of the publication of the notification under section 4, sub-section (*1*)" shall be inserted. Amendment of section 11, Act I of 1894.

6. To section 17 of the said Act the following sub-section shall be added, namely:— Amendment of section 17, Act I of 1894.

"(*4*) In the case of any land to which, in the opinion of the Local Government, the provisions of sub-section (*1*) or sub-section (*2*) are applicable, the Local Government may direct that the provisions of section 5A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (*1*)."

7. In clause *first* of sub-section (*1*) of section 23 of the said Act, for the words "declaration relating thereto under section 6;" the words "notification under section 4, sub-section (*1*)," shall be substituted. Amendment of section 23, Act I of 1894.

8. In clause *seventhly* of section 24 of the said Act, for the words "declaration under section 6" the words "notification under section 4, sub-section (*1*)," shall be substituted. Amendment of section 24, Act I of 1894.

9. In sub-section (*1*) of section 40 of the said Act, after the word "satisfied," the words "either on the report of the Collector under section 5A, sub-section (*2*), or" shall be inserted. Amendment of section 40, Act I of 1894.

10. In section 41 of the said Act,— Amendment of section 41, Act I of 1894.

(*a*) the words "Such officer shall report to the Local Government the result of the inquiry, and," shall be omitted; and

(*b*) after the word "satisfied" the following words shall be inserted, namely:—

"after considering the report, if any, of the Collector under section 5A, sub-section (*2*), or on the report of the officer making an inquiry under section 40."

ACT No. XXXIX OF 1923.[1]

[*5th August, 1923.*]

An Act further to amend the Indian Ports Act, 1908.

WHEREAS it is expedient further to amend the [2]Indian Ports Act, 1908; It is hereby enacted as follows:— XV of 1908.

1. This Act may be called the Indian Ports (Amendment) Act, 1923. Short title.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 266.
[2] General Acts, Vol. VI.

Amendment of section 6, Act XV of 1908.

2. In sub-section (*1*) of section 6 of the [1]Indian Ports Act, 1908 (hereinafter referred to as the said Act), after clause (*e*) the following clause shall be inserted, namely:— XV of 1908.

"(*ee*) for regulating the manner in which oil or water mixed with oil shall be discharged in any such port and for the disposal of the same;".

Amendment of section 21, Act XV of 1908.

3. In section 21 of the said Act—

(*a*) to sub-section (*1*) after the word "landfloods" the following shall be added, namely:—

"and no oil or water mixed with oil shall be discharged in or into any such port, to which any rules made under clause (*ee*) of sub-section (*1*) of section 6 apply, otherwise than in accordance with such rules";

(*b*) in sub-section (*2*)—

(*i*) after the words "such other thing" the words "or so discharges any oil or water mixed with oil" shall be inserted, and

(*ii*) for the words "or thrown" the words "thrown or discharged" shall be substituted; and

(*c*) in sub-section (*3*)—

(*i*) after the words "such other thing" the words "or from so discharging any oil or water mixed with oil" shall be inserted, and

(*ii*) for the words "or throw it" the words "throw or discharge the same" shall be substituted; and

(*d*) in sub-section (*4*), after the words "thrown into" the words "or the oil or water mixed with oil is discharged in or into" shall be inserted.

ACT No. XL OF 1923.[2]

[*5th August, 1923.*]

An Act further to amend the Indian Electricity Act, 1910.

WHEREAS it is expedient further to amend the [3]Indian Electricity Act, 1910; It is hereby enacted as follows:— IX of 1910.

Short title.

1. This Act may be called the Indian Electricity (Amendment) Act, 1923.

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[1] General Acts, Vol. VI.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 265.
[3] General Acts, Vol. VII.

IX of 1910. **2.** After section 29 of the [1]Indian Electricity Act, 1910, the following section shall be inserted, namely:— Insertion of new section 29A in Act IX of 1910.

"29A. The provisions of sub-sections (*3*) and (*4*) of section 18 and of the *Explanation* thereto shall apply in the case of any aërial line placed by any railway administration as defined in section 3 of the [2]Indian Rail- IX of 1890. ways Act, 1890, as if references therein to the licensee were references to the railway administration." Application of section 18 to aërial lines maintained by railways.

ACT No. XLI OF 1923.[3]

[*5th August, 1923.*]

An Act to amend the Charitable and Religious Trusts Act, 1920.

WHEREAS it is expedient to amend the [4]Charitable and Religious XIV of 1920. Trusts Act, 1920; It is hereby enacted as follows:—

1. This Act may be called the Charitable and Religious Trusts (Amendment) Act, 1923. Short title.

XIV of 1920. **2.** In section 2 of the [4]Charitable and Religious Trusts Act, 1920, after the words "the Court of the District Judge", the words "or any other Court empowered in that behalf by the Local Government" shall be inserted. Amendment of section 2, Act XIV of 1920.

ACT No. XLII OF 1923.[5]

[*5th August, 1923.*]

An Act to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties.

WHEREAS it is expedient to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties; It is hereby enacted as follows:—

Preliminary.

1. (*1*) This Act may be called the Mussalman Wakf Act, 1923; Short title, extent and commencement.

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[1] General Acts, Vol. VII.
[2] General Acts, Vol. IV.
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1922. Pt. V. p. 235.
[4] *Supra.*
[5] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 182; and for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 139.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas;

(*3*) This section shall come into force at once; and

(*4*) The Local Government may, by notification in the local official Gazette, direct that the remaining provisions of this Act, or any of them which it may specify, shall come into force in the Province, or any specified part thereof, on such date as it may appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "benefit" does not include any benefit which a mutwalli is entitled to claim solely by reason of his being such mutwalli;

(*b*) "Court" means the Court of the District Judge or, within the limits of the ordinary original civil jurisdiction of a High Court, such Court, subordinate to the High Court, as the Local Government may, by notification in the local official Gazette, designate in this behalf;

(*c*) "mutwalli" means any person appointed either verbally or under any deed or instrument by which a wakf has been created or by a Court of competent jurisdiction to be the mutwalli of a wakf, and includes a naib-mutwalli or other person appointed by a mutwalli to perform the duties of the mutwalli, and, save as otherwise provided in this Act, any person who is for the time being administering any wakf property;

(*d*) "prescribed" means prescribed by rules made under this Act; and

(*e*) "wakf" means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable, but does not include any wakf, such as is described in section 3 of the [1]Mussalman Wakf Validating Act, 1913, under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any of his family or descendants. VI of 1913.

Statements of Particulars.

Obligation to furnish particulars relating to wakf.

3. (*1*) Within six months from the commencement of this Act every mutwalli shall furnish to the Court within the local limits of whose jurisdiction the property of the wakf of which he is the mutwalli is

[1] General Acts, Vol. VII.

situated or to any one of two or more such Courts, a statement containing the following particulars, namely:—

(*a*) a description of the wakf property sufficient for the identification thereof;

(*b*) the gross annual income from such property;

(*c*) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or of the period which has elapsed since the creation of the wakf, whichever period is shorter;

(*d*) the amount of the Government revenue and cesses, and of all rents, annually payable in respect of the wakf property;

(*e*) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (*c*) relate;

(*f*) the amount set apart under the wakf for—

(*i*) the salary of the mutwalli and allowances to individuals;

(*ii*) purely religious purposes;

(*iii*) charitable purposes;

(*iv*) any other purposes; and

(*g*) any other particulars which may be prescribed.

(*2*) Every such statement shall be accompanied by a copy of the deed or instrument creating the wakf or, if no such deed or instrument has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the mutwalli, of the origin, nature and objects of the wakf.

(*3*) Where—

(*a*) a wakf is created after the commencement of this Act, or

(*b*) in the case of a wakf such as is described in section 3 of the [1]Wakf Validating Act, 1913, the person creating the wakf or any member of his family or any of his descendants is at the commencement of this Act alive and entitled to claim any benefit thereunder,

VI of 1913.

the statement referred to in sub-section (*1*) shall be furnished, in the case referred to in clause (*a*), within six months of the date on which the wakf is created or, if it has been created by a written document, of the date on which such document is executed, or, in the case referred to in clause (*b*), within six months of the date of the death of the person entitled to such benefit as aforesaid, or of the last survivor of any such persons, as the case may be.

[1] General Acts, Vol. VII.

Publication of particulars and requisition of further particulars.

4. (*1*) When any statement has been furnished under section 3, the Court shall cause notice of the furnishing thereof to be affixed in some conspicuous place in the Court-house and to be published in such other manner, if any, as may be prescribed, and thereafter any person may apply to the Court by a petition in writing, accompanied by the prescribed fee, for the issue of an order requiring the mutwalli to furnish further particulars or documents.

(*2*) On such application being made, the Court may, after making such inquiry, if any, as it thinks fit, if it is of opinion that any further particulars or documents are necessary in order that full information may be obtained regarding the origin, nature or objects of the wakf or the condition or management of the wakf property, cause to be served on the mutwalli an order requiring him to furnish such particulars or documents within such time as the Court may direct in the order.

Statement of Accounts, and Audit.

Statement of accounts.

5. Within three months after the thirty-first day of March next following the date on which the statement referred to in section 3 has been furnished, and thereafter within three months of the thirty-first day of March in every year, every mutwalli shall prepare and furnish to the Court to which such statement was furnished a full and true statement of accounts, in such form and containing such particulars as may be prescribed, of all moneys received or expended by him on behalf of the wakf of which he is the mutwalli during the period of twelve months ending on such thirty-first day of March or, as the case may be, during that portion of the said period during which the provisions of this Act have been applicable to the wakf:

Provided that the Court may, if it is satisfied that there is sufficient cause for so doing, extend the time allowed for the furnishing of any statement of accounts under this section.

Audit of accounts.

6. Every statement of accounts shall, before it is furnished to the Court under section 5, be audited—

(*a*) in the case of a wakf the gross income of which during the year in question, after deduction of the land-revenue and cesses, if any, payable to the Government, exceeds two thousand rupees, by a person who is the holder of a certificate granted by the Local Government under section 144 of the [1]Indian Companies Act, 1913, or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout British India; or

VII of 1913.

(*b*) in the case of any other wakf, by any person authorised in this behalf by general or special order of the said Court.

[1] General Acts, Vol. VII.

General Provisions.

Mutwalli entitled to pay cost of audit, etc., from wakf funds.

7. Notwithstanding anything contained in the deed or instrument creating any wakf, every mutwalli may pay from the income of the wakf property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 3 or section 4 or in respect of the preparation or audit of the annual accounts for the purposes of this Act.

Verification.

8. Every statement of particulars furnished under section 3 or section 4, and every statement of accounts furnished under section 5, shall be written in the language of the Court to which it is furnished, and shall be verified in the manner provided in the [1]Code of Civil Procedure, 1908, for the signing and verification of pleadings.

V of 1908.

Inspection and copies.

9. Any person shall, with the permission of the Court and on payment of the prescribed fee, at any time at which the Court is open, be entitled to inspect in the prescribed manner, or to obtain a copy of, any statement of particulars or any document furnished to the Court under section 3 or section 4, or any statement of accounts furnished to it under section 5, or any audit report made on an audit under section 6.

Penalty.

Penalties.

10. Any person who is required by or under section 3 or section 4 to furnish a statement of particulars or any document relating to a wakf, or who is required by section 5 to furnish a statement of accounts, shall, if he, without reasonable cause the burden of proving which shall be upon him, fails to furnish such statement or document, as the case may be, in due time, or furnishes a statement which he knows or has reason to believe to be false, misleading or untrue in any material particular, or, in the case of a statement of accounts, furnishes a statement which has not been audited in the manner required by section 6, be punishable with fine which may extend to five hundred rupees, or, in the case of a second or subsequent offence, with fine which may extend to two thousand rupees.

Rules.

Power to make rules.

11. (*1*) The Local Government may, after previous publication, by notification in the local official Gazette, make rules to carry into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the additional particulars to be furnished by mutwallis under clause (*g*) of sub-section (*1*) of section 3;

[1] General Acts, Vol. VI.

(*b*) the fees to be charged upon applications made to a Court under sub-section (*1*) of section 4;

(*c*) the form in which the statement of accounts referred to in section 5 shall be furnished, and the particulars which shall be contained therein;

(*d*) the powers which may be exercised by auditors for the purpose of any audit referred to in section 6, and the particulars to be contained in the reports of such auditors;

(*e*) the fees respectively chargeable on account of the allowing of inspections and of the supply of copies under section 9;

(*f*) the safe custody of statements, audit reports and copies of deeds or instruments furnished to Courts under this Act; and

(*g*) any other matter which is to be or may be prescribed.

Savings.

12. Nothing in this Act shall—

(*a*) affect any other enactment for the time being in force in British India providing for the control or supervision of religious or charitable endowments; or

(*b*) apply in the case of any wakf the property of which—

(*i*) is being administered by the Treasurer of Charitable Endowments, the Administrator General, or the Official Trustee; or

(*ii*) is being administered either by a receiver appointed by any Court of competent jurisdiction, or under a scheme for the administration of the wakf which has been settled or approved by any Court of competent jurisdiction or by any other authority acting under the provisions of any enactment.

Exemption.

13. The Local Government may, by notification in the local official Gazette, exempt from the operation of this Act or of any specified provision thereof any wakf or wakfs created or administered for the benefit of any specified section of the Mussalman community.

ACT No. XLIII OF 1923.[1]

[*1st October, 1923.*]

An Act further to amend the Indian Stamp Act, 1899.

WHEREAS it is expedient further to amend the [2]Indian Stamp Act, 1899; It is hereby enacted as follows:— II of 1899.

Short title.

1. This Act may be called the Indian Stamp (Amendment) Act, 1923.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 84; for Report of Select Committee, *see ibid*, 1923, Pt. V, p. 249.

[2] General Acts, Vol. V.

II of 1899.

2. In Schedule I to the [1]Indian Stamp Act, 1899,— Amendment of Schedule I, Act II of 1899.

(*i*) In each of the following Articles, namely, No. 19, No. 36, No. 37 and No. 52, in the second column, for the words "One anna" the words "Two annas" shall be substituted;

(*ii*) In Article No. 47—

(*a*) in Division B, in the first column, for the words "Fire-Insurance" the words "Fire-Insurance and other classes of Insurance, not elsewhere included in this Article, covering goods, merchandise, personal effects, crops, and other property against loss or damage;" and

(*b*) in Division E, in the first column, for the words "of sea-insurance or a policy of fire-insurance" the words "of the nature specified in Division A or Division B of this article"

shall be substituted;

(*iii*) For Article No. 49 the following shall be substituted, namely:—

"Promissory note [as defined by section 2 (*22*)]—

(*a*) when payable on demand—

(*i*) when the amount or value does not exceed Rs. 250;	One anna.
(*ii*) when the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000.	Two annas.
(*iii*) in any other case . .	Four annas.
(*b*) when payable otherwise than on demand.	The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand."

[1] General Acts, Vol. V.

PART III.

ACTS MADE BY THE GOVERNOR GENERAL UNDER THE PROVISIONS OF SECTION 67B OF THE GOVERNMENT OF INDIA ACT.

THE INDIAN STATES (PROTECTION AGAINST DISAFFECTION) ACT, 1922.

[*12th March, 1923.*]

An Act to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt, or to excite disaffection against, Princes or Chiefs of States in India or the Government or Administrations established in such States.

WHEREAS it is expedient to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt, or to excite disaffection against, Princes or Chiefs of States in India or the Governments or Administrations established in such States; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian States (Protection against Disaffection) Act, 1922.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "book" and "newspaper" have the meanings respectively assigned to them by the [1]Press and Registration of Books Act, 1867; XXV of 1867.

(*b*) "disaffection" includes disloyalty and all feelings of enmity; and

(*c*) "document" includes any painting, drawing, photograph, or other visible representation.

Penalty.

3. (*1*) Whoever edits, prints or publishes, or is the author of, any book, newspaper or other document which brings or is intended to bring into hatred or contempt, or excites or is intended to excite disaffection towards, any Prince or Chief of a State in India or the Government or Administration established in any such State, shall be punishable with imprisonment which may extend to five years, or with fine, or with both.

[1] General Acts, Vol. I.

(2) No person shall be deemed to commit an offence under this section in respect of any book, newspaper or other document which, without exciting or being intended to excite hatred, contempt or disaffection, contains comments expressing disapprobation of the measures of any such Prince, Chief, Government or Administration as aforesaid with a view to obtain their alteration by lawful means, or disapprobation of the administrative or other action of any such Prince, Chief, Government or Administration.

Power to forfeit certain publications or to detain them in course of transmission through post.

4. The provisions of sections 99A to 99G of the [1]Code of Criminal Procedure, 1898, and of sections 27B to 27D of the [1]Indian Post Office Act, 1898, shall apply in the case of any book, newspaper or other document containing matter in respect of which any person is punishable under section 3 in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections. V of 1898. VI of 1898.

Courts by which and conditions subject to which offence may be tried.

5. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall proceed to the trial of any offence under section 3, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the Governor General in Council.

THE INDIAN FINANCE ACT, 1923.[2]

[*29th March, 1923.*]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the [3]Indian Tariff Act, 1894, to fix maximum rates of postage under the [1]Indian Post Office Act, 1898, to amend the [4]Indian Paper Currency Act, 1923, and to fix rates of income-tax; It is hereby enacted as follows:— VIII of 1894. VI of 1898. X of 1923.

Short title, extent and duration.

1. (1) This Act may be called the Indian Finance Act, 1923.

(2) It extends to the whole of British India, including the Sonthal Parganas and British Baluchistan.

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[1] General Acts, Vol. V.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 120.
[3] General Acts, Vol. IV.
[4] *Supra.*

(*3*) Sections 2, 4 and 6 shall remain in force only up to the 31st day of March, 1924.

XII of 1882. **2.** (*1*) The provisions of section 7 of the [1]Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the first day of March, 1923, they imposed such duty at the rate of two rupees and eight annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act be deemed to have been imposed by rule made under that section. Fixation of salt duty

(*2*) With effect from the first day of March, 1923, section 2 of the XII of 1922. [2]Indian Finance Act, 1922, is hereby repealed.

VIII of 1894. **3.** (*1*) In Schedule II to the [3]Indian Tariff Act, 1894, the amendments specified in the First Schedule to this Act shall be made. Amendment of Act VIII of 1894.

(*2*) In Schedule III to the same Act, in item No. 3, for the entry in the fourth column the entry "5 per cent." shall be substituted.

VIII of 1894. (*3*) The amendments made in the [3]Indian Tariff Act, 1894, by this section shall have effect from the first day of March, 1923.

4. With effect from the first day of April, 1923, the Schedule contained in the Second Schedule to this Act shall be inserted in the [4]Indian VI of 1898. Post Office Act, 1898, as the First Schedule to that Act. Postal rates

X of 1923. **5.** In sub-section (*7*) of section 19 of the [2]Indian Paper Currency Act, 1923, for the figures "1923" the figures "1924" shall be substituted. Amendment of Act X of 1923.

6. (*1*) Income-tax for the year beginning on the first day of April, 1923, shall be charged at the rates specified in Part I of the Third Schedule. Income-tax and super-tax.

(*2*) The rates of super-tax for the year beginning on the first day of April, 1923, shall, for the purposes of section 55 of the [2]Indian XI of 1922. Income-tax Act, 1922, be those specified in Part II of the Third Schedule.

(*3*) For the purposes of the Third Schedule, "total income" means total income as defined in clause (*15*) of section 2 of the [2]Indian Income-XI of 1922. tax Act, 1922.

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[1] General Acts, Vol. III.
[2] *Supra.*
[3] General Acts, Vol. IV.
[4] General Acts, Vol. V.

SCHEDULE I.

Amendments to be made in Schedule II to the Indian Tariff Act, 1894.

[*See section 3 (1).*]

1. In item No. 4, after the words "all sorts" the words "except ochres and other pigment ores" shall be added.

2. For item No. 14 the following shall be substituted, namely:—

"CINCHONA BARK and the alkaloids extracted therefrom including QUININE."

3. In item No. 29, for the words "spirit, which has been rendered effectually and permanently unfit for human consumption" the words "Denatured Spirit" shall be substituted.

4. In item No. 30, to the entry in the fourth column the words "or 15 per cent. *ad valorem*, whichever is higher" shall be added.

5. In item No. 31, the following shall be added to each of the entries in the fourth column, namely:—

"or 15 per cent. *ad valorem*, whichever is higher."

6. In item No. 34, in the second column, the words "and saccharine produce of all sorts" shall be omitted.

7. After item No. 34 the following heading and items shall be inserted, namely:—

"	SACCHARINE.		
34A	SACCHARINE (except in tablets)	Pound .	20 0
34B	SACCHARINE TABLETS . .	*Ad valorem*	25 per cent. or Rs. 20 per pound of saccharine contents, whichever is higher."

8. In item No. 43, for the entry in the fourth column, the following shall be substituted, namely:—"24-0 or 15 per cent. *ad valorem*, whichever is higher."

9. For item No. 51 the following items shall be substituted, namely:—

"51	MACHINERY, namely, such of the following articles as are not specified in any of the following numbers, namely, Nos. 15, 16, 53, 54, 55, 87, 90-A, 96, 103, 111 and 127:—
	(1) prime-movers, boilers, locomotive engines and tenders for the same, portable engines (including power-driven road rollers, fire engines and tractors), and other machines in which the prime-mover is not separable from the operative parts;
	(2) machines and sets of machines to be worked by electric, steam, water, fire or other power, not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts;

(3) apparatus and appliances, not to be operated by manual or animal labour, which are designed for use in an industrial system as parts indispensable for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose;

(4) control gear, self-acting or otherwise, and transmission-gear designed for use with any machinery above specified, including belting of all materials and driving chains but not driving ropes;

(5) bare hard-drawn electrolytic copper wires and cables and other electrical wires and cables, insulated or not; and poles, troughs, conduits and insulators designed as parts of a transmission system, and the fittings thereof.

Note.—The term "industrial system" used in sub-clause (3) means an installation designed to be employed directly in the performance of any process or series of processes necessary for the manufacture, production or extraction of any commodity.

51A	COMPONENT PARTS OF MACHINERY, as defined in No. 51, namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose: Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable."

10. Item No. 52 and the heading thereto shall be omitted.

11. Item No. 56 shall be omitted.

12. For item No. 61 the following shall be substituted, namely:—

"61	IRON OR STEEL, anchors and cables.	
	,,	,, beams, joists, pillars, girders and other structural shapes, whether fabricated or not, screw piles, bridge work and other descriptions of iron or steel not ordinarily used for other than building purposes; including ridging, guttering, flashing and continuous roofing; also including expanded metal and other descriptions of iron or steel designed for use in the reinforcing of concrete; but not including builders' hardware, that is to say, grates, stoves, ventilators, door and window fittings and the like; (*See* No. 90).
	,,	,, bolts and nuts, including hook-bolts and nuts for roofing.
	,,	,, hoops and strips.
	,,	,, nails, rivets and washers, all sorts.
	,,	,, pipes and tubes and fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like.
	,,	,, rails, chairs, sleepers, bearing and fish-plates, spikes (commonly known as dog-spikes), switches and crossings, other than those described in No. 63, also lever-boxes, clips and tie-bars.
	,,	,, sheets and plates, all sorts, whether fabricated or not, including discs and circles.
	,,	,, wire, including fencing-wire, piano-wire and wire-rope, but excluding wire-netting (*See* No. 97)."

13. In item No. 63, the words "engines, tenders" shall be omitted, and for the second proviso, the following proviso shall be substituted, namely:—

"Provided also that nothing shall be deemed to be dutiable hereunder which is dutiable under No. 51 or No. 51A."

14. After item No. 63 the following item shall be inserted, namely:—

"63A	COMPONENT PARTS OF RAILWAY MATERIALS, as defined in No. 63, namely, such parts only as are essential for the working of railways and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose: Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the railway material to which they belong, if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable."

15. To item No. 64 the following proviso shall be added, namely:—

	"Provided that articles of machinery as defined in No. 51 or No. 51A shall, when separately imported, not be deemed to be included hereunder."

16. For item No. 87 and the heading thereto the following shall be substituted, namely:—

	"CONVEYANCES.
87	CONVEYANCES, including tramcars, motor-omnibuses, motor-lorries, motor-vans, passenger lifts, carriages, carts, jinrikshas, bath-chairs, perambulators, trucks, wheel barrows, bicycles, tricycles and all other sorts of conveyances not otherwise specified, and component parts and accessories thereof, except such parts and accessories of the motor vehicles above-mentioned as are also adapted for use as parts or accessories of motor cars, motor cycles or motor scooters (*See* No. 127)."

17. After item No. 90 the following item shall be inserted, namely:—

"90A	ELECTRICAL CONTROL GEAR AND TRANSMISSION GEAR, namely, switches, fuses and current-breaking devices of all sorts and descriptions, designed for use in circuits of less than ten *amperes* and at a pressure not exceeding 250 volts, and regulators for use with motors designed to consume less than 187 watts; bare or insulated copper wires and cables, any one core of which has a sectional area of less than one-eightieth part of a square inch, and wires and cables of other metals of not more than equivalent conductivity; and line insulators, including also cleats, connectors, leading-in tubes and the like, of types and sizes such as are ordinarily used in connection with the transmission of power for other than industrial purposes, and the fittings thereof."

18. To item No. 96 the following shall be added, namely:—

	"and any machines (except such as are designed to be used exclusively in industrial processes) which require for their operation less than one quarter of one brake-horse-power."

19. In item No. 103, after the word "tiles" the words "firebricks not being component parts of any article included in No. 51 or No. 63" shall be inserted, and after the word "specified" the words "including bitumen and other insulating materials" shall be added.

20. In item No. 127, the words "bicycles and tricycles" and the words "or of bicycles or tricycles" shall be omitted.

21. To item No. 130 the words "and parts thereof" shall be added.

22. In item No. 139, the word "and" shall be inserted after the word "cycles" and the words "bicycles and tricycles" shall be omitted.

SCHEDULE II.

Schedule to be inserted in the Indian Post Office Act, 1898.

(*See section 4.*)

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

(*See section 7.*)

Letters.	
For a weight not exceeding two and a half tolas . . .	One anna.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas	One anna.
Postcards.	
Single	Half an anna.
Reply	One anna.
Book, Pattern and Sample Packets.	
For every five tolas or fraction thereof	Half an anna.
Registered Newspapers.	
For a weight not exceeding eight tolas	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.
Parcels.	
For a weight not exceeding twenty tolas	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annas."

SCHEDULE III.

(*See section 6.*)

PART I.

Rates of Income-tax.

	Rate
A. In the case of every individual, every unregistered firm and every undivided Hindu family—	
(1) When the total income is less than Rs. 2,000.	*Nil.*
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000.	Five pies in the rupee.

(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000.	Six pies in the rupee.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000.	Nine pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000.	One anna in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000.	One anna and three pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards.	One anna and six pies in the rupee.
B. In the case of every company, and every registered firm, whatever its total income.	One anna and six pies in the rupee.

PART II.

Rates of Super-tax.

	Rate.
In respect of the excess over fifty thousand rupees of total income :—	
(1) in the case of every company	One anna in the rupee.
(2) (*a*) in the case of every Hindu undivided family—	
(*i*) in respect of the first twenty-five thousand rupees of the excess.	*Nil.*
(*ii*) for every rupee of the next twenty-five thousand rupees of such excess.	One anna in the rupee
(*b*) in the case of every individual and every unregistered firm, for every rupee of the first fifty thousand rupees of such excess.	One anna in the rupee
(*c*) in the case of every individual, every unregistered firm and every Hindu undivided family—	
(*i*) for every rupee of the second fifty thousand rupees of such excess.	One and a half annnas in the rupee.
(*ii*) for every rupee of the next fifty thousand rupees of such excess.	Two annas in the rupee.
(*iii*) for every rupee of the next fifty thousand rupees of such excess.	Two and a half annas in the rupee.
(*iv*) for every rupee of the next fifty thousand rupees of such excess.	Three annas in the rupee.
(*v*) for every rupee of the next fifty thousand rupees of such excess.	Three and a half annas in the rupee.
(*vi*) for every rupee of the next fifty thousand rupees of such excess.	Four annas in the rupee.
(*vii*) for every rupee of the next fifty thousand rupees of such excess.	Four and a half annas in the rupee.
(*viii*) for every rupee of the next fifty thousand rupees of such excess.	Five annas in the rupee.
(*ix*) for every rupee of the next fifty thousand rupees of such excess.	Five and a half annas in the rupee.
(*x*) for every rupee of the remainder of the excess.	Six annas in the rupee.

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